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# DECISIONS

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## RAILROAD COMMISSION

OF THE

### STATE OF CALIFORNIA

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State Building, Civic Center, San Francisco.

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# CALIFORNIA RAILROAD COMMISSION DECISIONS.

Decision No. 11611.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR PERMISSION TO EXTEND ITS PRESENT AUTOMOBILE STAGE LINES FROM RIVERSIDE TO REDLANDS, CALIFORNIA, VIA HIGHGROVE AND LOMA LINDA, AND TO SERVE ALL POINTS INTERMEDIATE THERETO, AND TO OPERATE THE SAID EXTENDED LINES IN CONJUNCTION WITH, AND AS PART OF ALL OTHER PORTIONS OF APPLICANT'S PRESENT EXISTING AUTOMOBILE STAGE LINE SYSTEM.

Application No. 8054.

Decided February 6, 1923.

*H. W. Kidd*, for Applicant.

*W. R. Miller* and *B. H. Sharpe*, for the Pacific Electric Railway Company.

*F. E. Watson*, for Southern Pacific Company.

*T. A. Woods*, for American Railway Express Company.

BY THE COMMISSION.

## OPINION.

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers and express between Riverside and Loma Linda, via Highgrove, serving all intermediate points along the route described in said application, together with authority to conduct said operations in conjunction with and as a part of all of its existing lines, and particularly with its lines at Loma Linda and Riverside.

Applicant proposes to charge rates and to operate on time schedules in accordance with Exhibits A and B attached to said application. Applicant proposes to use all necessary White trucks of a kind similar to those now used in other operations upon its system.

Applicant now operates out of Los Angeles lines of automobile passenger stages to Riverside, via Pomona and Ontario; and also to Redlands, via Pomona, Ontario and Colton; and also to Redlands, via Uplands, Rialto and San Bernardino; and this proposed service between Riverside and Loma Linda would establish, in connection with the desired extension sought, a through service over at least two routes from Los Angeles to Redlands and return, via Riverside and via San Bernardino.

Public hearings were held at Riverside before Examiner Satterwhite on said application, the matter was submitted and is now ready for decision.

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The Southern Pacific Company, the American Railway Express Company, Pacific Electric Railway Company and The Atchison, Topeka and Santa Fe Railway Company protested the granting of said application. A large number of witnesses, consisting of business men, merchants, farmers and others residing in the territory proposed to be served, testified in support of the application.

The evidence shows that the territory between Riverside and Loma Linda consists of highly developed agricultural lands devoted largely to the culture of citrus fruits. Loma Linda has a population of about 1500 people, made up, in the main, of the officials, employees, nurses and patients of Loma Linda Sanitarium. Highgrove, with a population of about 400, and Grand Terrace, with about 250 people, are closely settled and growing communities between Loma Linda and Riverside. Along and contiguous to the proposed stage route are many farms and country homes.

Riverside is the chief business, social and recreation center for most of the population residing in and in the vicinity of all these smaller towns and communities. Many children in all parts of this territory attend the Riverside schools.

The record shows that the Southern Pacific Company furnishes a very infrequent and indirect service between Loma Linda and Riverside. The Pacific Electric Railway Company passes through West Highgrove about three-quarters of a mile from its business center, and passengers going to Riverside from Highgrove and intermediate territory are compelled to walk at least one-half to one and one-half miles from their homes or business places. There is no means of direct transportation between Highgrove and Loma Linda. Applicant offered evidence to the effect that there is also need for the transportation of express matter and packages between Loma Linda and Riverside and way points. The Chambers of Commerce of Highgrove and Loma Linda and other local civic bodies have endorsed the proposed service.

The record shows, however, that there is very little travel between Loma Linda and Redlands, now served by the Motor Transit Company, or between Highgrove and other points intermediate to Redlands. As regards the through travel between Riverside and Redlands, applicant offered some testimony to the effect that there are a few daily inquiries for such transportation at Riverside hotels and also at the Motor Transit depots in Redlands and Riverside.

The Pacific Electric Railway Company, protestant, introduced in evidence its rate and time schedules between Riverside and Redlands and intermediate points. This protestant showed that it operates daily nineteen trains from Riverside to Redlands and seventeen trains from Redlands to Riverside, maintaining practically an hourly service between the hours of six in the morning and twelve o'clock midnight.

E. H. Sharp, in the executive department of this protestant, after a careful investigation made prior to this hearing to determine the average amount of travel between Redlands and Riverside on the lines of the Pacific Electric, showed that only an average of twenty-four passengers a day traveled during one week in the month of August, 1922; that during the months of July and August, 1922, no commutation tickets were sold at all between these terminals; and that only twenty-three commutation tickets were sold in August, 1922, between Riverside and West Highgrove.

After a careful consideration of all the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation by applicant of its proposed stage service between Riverside and Loma Linda and intermediate points.

Applicant has made little or no showing to justify this Commission in permitting this proposed local operation between Riverside and Loma Linda to be linked up and combined with the other lines of applicant for the purpose of establishing a service from and to other points now served by applicant. Applicant admits that the volume of through travel between Riverside and Redlands is very limited, and has made no showing that the through service of the Pacific Electric is in any way inadequate. Applicant suggests, however, that this Commission authorize the proposed through stage service between Riverside and Redlands on the basis that, as the volume of travel is so small, the Pacific Electric can not be damaged to any appreciable extent by the proposed competition. This Commission is not in accord with such suggestion for the reasons heretofore often indicated in many of its decisions; that authority to operate a stage service as a common carrier of passengers must be predicated upon a satisfactory showing that public necessity and convenience require such a service.

#### ORDER.

Public hearings having been held in the above entitled application, the matter having been submitted and being now ready for decision;

The Railroad Commission hereby declares that public convenience and necessity require the operation by Motor Transit Company, a corporation, of an automobile stage line as a common carrier of passengers and express matter between Riverside and Loma Linda, via Highgrove, serving as intermediate points along the route the communities of Highgrove and Grand Terrace;

Provided, however, that no authority is hereby granted to conduct the foregoing operations in conjunction with and as a part of any or all of its existing lines, or, in particular, with its lines at Loma Linda and Riverside;

Provided, further, that the operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the

said service abandoned unless the written consent of the Railroad Commission thereto has first been procured; and

Provided, further, that no vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

*It is hereby ordered*, that the applicant shall within thirty (30) days from the date hereof file with the Railroad Commission its schedule and tariffs covering said proposed service which shall be in addition to the proposed schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized shall commence, which date shall be within thirty (30) days from date hereof, unless the time within which to begin operation is extended by formal supplemental order.

Dated at San Francisco, California, this sixth day of February, 1923.

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DECISION No. 11612.

IN THE MATTER OF THE APPLICATION OF SAM ARONSON AND H. E. BOSWELL, PARTNERS IN BUSINESS UNDER THE NAME OF GOLDEN EAGLE-BARKER STAGE, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER SERVICE BETWEEN LINCOLN, PLACER COUNTY, CALIFORNIA, AND MARYSVILLE, YUBA COUNTY, CALIFORNIA.

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Application No. 8262.

Decided February 6, 1923.

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*Ray Manwell* and *J. B. Gibson*, for Applicants.

*C. E. Spear*, for Southern Pacific Company, Protestant.

*J. J. Harris*, for Western Pacific Railroad and Sacramento Northern Railroad, Protestants.

*F. E. Crandall*, for American Railway Express Company, Protestant.

By THE COMMISSION.

OPINION.

Sam Aronson and H. E. Boswell, co-partners doing business under the firm name and style of Golden Eagle-Barker Stage, have made application to the Railroad Commission in which they petition for a certificate of public convenience and necessity authorizing them to operate an automobile stage line as a common carrier of passengers between Lincoln, Placer County, and Marysville, Yuba County, and intermediate points, California.

Applicants at the present time are operating an automobile stage line as a common carrier of passengers between Sacramento and Roseville and between Roseville and Lincoln. The present application proposes the operation of a third section from Lincoln to Marysville, via

Sheridan and Wheatland, a distance of approximately twenty-five miles. All four points are reached by the rails of the Southern Pacific Company. Sheridan and Wheatland are respectively eight and twelve miles north of Lincoln. The Western Pacific Railroad and the Sacramento Northern Railroad operate between Sacramento and Marysville, but do not reach either Lincoln, Sheridan or Wheatland. The three carriers named, together with the American Railway Express Company, were represented at the hearing, and protested the granting of the application. Upon ascertaining, however, that the applicants expected to handle small packages more as an accommodation and in cases of emergency, the protest of the express company was withdrawn. No testimony in support of the protests was offered by either the Western Pacific, Sacramento Northern, or Southern Pacific.

The application as drawn asks permission to conduct a local service between Lincoln and Marysville, and the testimony of the witnesses was so directed. Trains of the Southern Pacific Company leave Lincoln at 1.33 a.m., 2.17 p.m. and 5.30 p.m.; trains of this company leave Marysville at 9.55 a.m., 1.10 p.m. and 1.55 a.m. The running time between Lincoln and Marysville is about one hour, and it will be observed that under the present schedules of the rail carriers it is impossible for persons living south of Marysville to come to that city and return to their homes the same day. The sentiment of the residents of the territory between Marysville and Lincoln, as expressed at the hearing, was so overwhelmingly in favor of the proposed service as to leave no doubt as to the necessity therefor. Nowhere, however, is there shown any necessity for the operation of a through service between Marysville and Roseville or Sacramento, via Lincoln.

The application for a certificate of public convenience and necessity to operate an automobile stage line for the transportation of passengers between Lincoln and Marysville will be granted. This permission, however, must not be construed as permitting the applicants to operate a through service between Roseville and Marysville, via Lincoln.

Applicants in their petition ask for a certificate of public convenience and necessity for the transportation of passengers only. In their Exhibit A, however, they set up rates for the transportation of packages. At the hearing applicants stated that they only desired to carry packages as an accommodation. Accommodation is a broad and very indefinite word with respect to transportation of express matter and, inasmuch as no evidence whatsoever was introduced to show the necessity for such a service, the order herein will be confined to the passenger service only.



**ORDER.**

A public hearing having been held upon the above entitled application, evidence submitted and the Commission being fully advised;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Sam Aronson and H. E. Boswell, co-partners doing business under the firm name and style of Golden Eagle-Barker Stage, of an automobile stage line as a common carrier of passengers between Lincoln and Marysville, serving Sheridan and Wheatland as intermediate points, and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

1. That the certificate herein authorizes the transportation for compensation of passengers only, and does not include nor authorize the transportation of express matter, nor does this certificate authorize the operation of automobile passenger stages by applicants herein from Sacramento to Marysville or Roseville to Marysville, via Lincoln, but only a local service between Marysville and Lincoln, unless a through service is hereinafter authorized by subsequent certificate.

2. Applicants herein shall file within a period of not to exceed ten (10) days from date hereof, written acceptance of the certificate herein granted; shall file within a period of not to exceed twenty (20) days from date hereof, in duplicate, tariff of rates and time schedules. Tariff of rates to be identical with the passenger rates as set forth in Exhibit A attached to the application herein; time schedules to be identical with Exhibit B attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11613.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO  
FOR PERMISSION TO CONSTRUCT AND MAINTAIN A PUBLIC  
HIGHWAY CROSSING AT GRADE OVER THE RIGHT OF WAY AND  
TRACK OF SOUTHERN PACIFIC COMPANY AT ASHLAND AVENUE  
IN SAID COUNTY.

Application No. 8321.

Decided February 6, 1923.

GRADE CROSSINGS—COUNTY'S APPLICATION DENIED.—Public convenience and necessity do not require the establishment of a public crossing at grade over the tracks of the Southern Pacific Company at Ashland avenue, County of Fresno.

*Ray C. Wakefield*, for Applicant.

*F. B. Austin*, for Southern Pacific Company.

*M. F. Tarpey*, in propria persona.

BY THE COMMISSION.

## OPINION.

This is an application by the county of Fresno for permission to construct Ashland avenue across the Friant Branch of the Southern Pacific.

A public hearing was held on this application in Fresno before Examiner Satterwhite, December 13, 1922.

The railroad in this location runs north and south along the west-erly side of section 21, T. 13 S., R. 21 E., M. D. B. and M. There are ordinarily operated on the railroad approximately four passenger trains and eight freight trains daily at speeds from twenty-five to forty miles per hour.

Clovis avenue, a paved county highway, is located parallel with and adjacent to the railroad on its west side, and the purpose of the proposed crossing is to give access to this paved highway from the territory east of the railroad. The county proposes to construct Ashland avenue from Clovis avenue across the railroad and along the northerly line of section 21 to a connection with that portion of Ashland avenue which is now open and extends east eleven miles from the northeast corner of section 21. The principal use that would be made of this crossing would be by those people living on or near Ashland avenue between the railroad and Highland avenue, which is a north and south road located four miles east of the railroad. There are about twenty-five such families.

With the exception of that portion of Ashland avenue along the north line of sections 20 and 21, there are roads on practically all the section lines in this vicinity, running both east and west and north and south, the road one mile north being known as Shaw avenue and the road one mile south being known as Shields avenue, both of which cross the railroad at grade.

All of the territory in this vicinity consists of highly developed agricultural lands devoted to the culture of grapes or deciduous fruits. All traffic naturally moves as directly as possible to the paved highways, two of which traverse this general section, namely, Clovis avenue, above referred to, running north and south, and Ventura avenue, running east and west and located four miles south of Ashland avenue. The other roads are all well graded and graveled county roads. All of the traffic originating on or intersecting Ashland avenue at a location more than four miles east of the proposed crossing would normally move south to Ventura avenue, except the relative minor portion of the traffic as is destined to Clovis or other points to the north. The large majority of the traffic moves to Fresno.

It thus appears that in so far as through traffic is concerned there is but little justification for the construction of the Ashland avenue crossing, and the local traffic that would be benefited is limited to that serving the convenience of some twenty-five families; and as for these families, routes are available along existing roads which require no additional distance of travel for any point to which they desire to go, the only advantage being that, were Ashland avenue constructed, they would gain access to the paved highway (Clovis avenue) one mile sooner and thus replace one mile travel on dirt roads with a mile of travel on paved road.

Considering conditions at the proposed crossing itself, it appears that the railroad is more than three feet above the elevation of the adjacent pavement on Clovis avenue some fifty feet distant, under which circumstances the grade of approach of at least 7 per cent would be necessary for this crossing if installed. Such a grade of approach, when considered with the right angle turn necessary in going over this crossing in an easterly direction, would create a hazard at this crossing that would be somewhat more than exists at the average crossing. On the other hand, the obstructions to view are not serious.

In view of the relatively slight public convenience and necessity to be served by this crossing, as compared with the public hazard that would result from its installation, the application should be denied.

#### ORDER.

The board of supervisors of the county of Fresno having made application for permission to construct a public highway at grade across the track of the Southern Pacific Company on the north line of section 21, T. 13 S., R. 21 E., M. D. B. and M., a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby found as a fact that public necessity and convenience do not require the establishment of a public grade crossing at the point above set forth; therefore

*It is hereby ordered*, that the above entitled application be and it is hereby denied.

Dated at San Francisco, California, this sixth day of February, 1923.

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DECISION No. 11614.

IN THE MATTER OF THE APPLICATION OF DAVID W. TAYLOR FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE WHICH WILL EXTEND AND ENLARGE THE CERTIFICATE GRANTED BY DECISION No. 10857, APPLICATION No. 7939, SO AS TO PERMIT FREIGHT SERVICE BY HIM BETWEEN THE CITY OF OAKLAND AND THE VICINITIES OF KNIGHTSON, BRENTWOOD, BYRON, BETHANY AND PLEASANTON.

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Application No. 8361.

Decided February 6, 1923.

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*James M. Koford*, for Applicant.

*E. P. Rolson*, for American Railway Express Company.

*L. H. Rodenbaugh*, for San Francisco-Sacramento Short Line.

BY THE COMMISSION.

**OPINION.**

David W. Taylor has made application to the Railroad Commission for a certificate of public convenience and necessity authorizing him to operate an automobile truck line as a common carrier of milk and cream only between Brentwood, Byron, Bethany and Oakland, California.

A public hearing in the above entitled proceeding was held before Examiner Geary on January 12, 1923, at which time the matter was submitted and it is now ready for decision.

Applicant herein secured under Decision No. 10857 in Application No. 7939, dated August 15, 1922, a certificate of public convenience and necessity authorizing the transportation of milk and cream from dairies located at Knightson and Pleasanton to Oakland. By this application it is proposed to extend the Oakland-Knightson service to Brentwood, Byron and Bethany and returning via Dublin.

The testimony submitted with reference to the necessity for this proposed service showed that at the present time there is no common carrier truck line serving Oakland from the dairies located at any of the points to be served under the present application and, as this is a rapidly growing dairy country, a necessity existed for a truck line which would enable milk and cream to be transported to creameries located in Oakland promptly and in a sanitary condition.

The San Francisco and Sacramento Railroad Company withdrew protest to the granting of the present application provided that applicant did not seek to enlarge his existing certificate for the purpose of serving Pittsburg, Lafayette or Concord, points excluded under his previous certificate. The American Railway Express Company also withdrew its protest provided applicant's operations were confined to the transportation of milk and cream only.

Under the circumstances, we are of the opinion that the present application should be granted.

#### ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the extension by D. W. Taylor of his existing truck line from Oakland to Knightson to include Brentwood, Byron and Bethany and dairies located not to exceed three miles from the highway running between such points to Oakland, via Dublin, for the transportation of milk and cream only, and the return of empty containers; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. No milk or cream whatsoever to be transported by applicant between any point intermediate Bethany to Oakland via Dublin other than from dairies located within the three mile radius of Bethany.

2. Applicant shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file, in duplicate, within a period of not to exceed twenty (20) days from date hereof tariff of rates and time schedules, identical with those filed with the application herein as Exhibits A and B; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of February, 1923.

## Decision No. 11615.

IN THE MATTER OF THE APPLICATION OF THE CITY OF VENICE FOR A PERMIT TO CROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY BETWEEN THE LINES OF NAPLES AVENUE EXTENDED ACROSS THE TRACKS OF SAID PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF VENICE.

Application No. 8378.

IN THE MATTER OF THE APPLICATION OF THE CITY OF VENICE FOR A PERMIT TO CROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY BETWEEN THE LINES OF SHELL AVENUE EXTENDED ACROSS THE TRACKS OF SAID PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF VENICE.

Application No. 8379.

IN THE MATTER OF THE APPLICATION OF THE CITY OF VENICE FOR A PERMIT TO CROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY BETWEEN THE LINES OF GRANDE VIEW AVENUE EXTENDED ACROSS THE TRACKS OF SAID PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF VENICE.

Application No. 8380.

IN THE MATTER OF THE APPLICATION OF THE CITY OF VENICE FOR A PERMIT TO CROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY BETWEEN THE LINES OF PISANI PLACE EXTENDED ACROSS THE TRACKS OF SAID PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF VENICE.

Application No. 8447.

IN THE MATTER OF THE APPLICATION OF THE CITY OF VENICE FOR A PERMIT TO CROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY BETWEEN THE LINES OF PADUA PLACE EXTENDED ACROSS THE TRACKS OF SAID PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF VENICE.

Application No. 8448.

Decided February 6, 1923.

*Chas. W. Lyon*, City Attorney, for Applicant.

*C. W. Cornell*, for Pacific Electric Railway Company.

By THE COMMISSION.

**OPINION.**

In the above entitled applications, the city of Venice asks permission to construct Naples avenue, Shell avenue, Grande View avenue, Pisani place and Padua place, respectively, across the Venice Short Line of the Pacific Electric Railway Company.

A public hearing was held on the above entitled applications before Examiner Williams in the city of Venice, December 19, 1922, at which it was stipulated that these matters should be consolidated for hearing and decision.

At the hearing the applicant moved for dismissal of Application No. 8378, Application No. 8447, and Application No. 8448, covering the request for permission to construct Naples avenue, Pisani place and Padua place, respectively, across the Pacific Electric tracks. This

motion was granted and these three proceedings will therefore be dismissed without prejudice. The proposed crossings at Shell avenue and Grande View avenue, covered by Application No. 8379 and Application No. 8380, respectively, are, therefore, the only ones to be further considered.

In the vicinity of Shell avenue and Grande View avenue, the Pacific Electric has a double track electric railroad known as the Venice Short Line, located on private right of way, over which are operated daily more than one hundred (100) trains. The railroad extends in a northeasterly and southwesterly direction and is paralleled on its northwesterly side by Venice boulevard and on its southeasterly side by Virginia avenue, both of which are through paved streets connecting Lincoln boulevard and Washington boulevard. The two last named boulevards are through thoroughfares which run in a northwesterly and southeasterly direction and across, at grade, the Venice Short Line. Measured along the railroad, the Lincoln boulevard and Washington boulevard crossings are approximately thirty-three hundred (3300) feet apart. The proposed crossing of Grande View avenue is approximately nine hundred (900) feet southwesterly from the Lincoln avenue crossing, and the proposed crossing of Shell avenue is approximately thirteen hundred (1300) feet northeasterly from the Washington boulevard crossing. There is one additional open crossing at present in this vicinity, located at Oakwood avenue, which is approximately midway between the proposed Grande View avenue crossing and the proposed Shell avenue crossing. The Oakwood avenue crossing serves an essentially local interest as would also the proposed Grande View avenue and Shell avenue crossings. The railroad is about two feet above the adjacent pavement of Venice boulevard and Virginia avenue, under which circumstances any crossing in this vicinity must have a fairly steep grade of approach. Inasmuch as considerable portion of the traffic which would use these local crossings would be required to make a right angle turn immediately preceding going over the crossing, the steep grade of approach tends to increase the hazard which is considerable, in view of the dense train movement on the railroad.

Grande View avenue is adjacent to a station of the railroad, but it appears that only approximately fifty (50) per cent of the trains actually stop at this station and that the remaining trains pass at speeds approximating twenty-five (25) miles per hour. The testimony does not indicate that a sufficient public convenience and necessity exists to justify the construction of the Grande View avenue in the face of the hazard that this crossing would create.

Although Shell avenue extends only one block southeasterly from the railroad, it intersects Victoria avenue, which makes it the natural

outlet for a fairly important residential section. Northwesternly of the railroad, Shell avenue extends some seven blocks, intersecting three main thoroughfares which lead to the business district of Venice. It also appears that the proposed Shell avenue crossing is adjacent to the city hall station of the railroad, at which station about ninety (90) per cent of the trains stop. The elevation of the pavement of Venice boulevard and Virginia avenue, respectively, is such that a ten per cent grade of approach can be installed, which is materially less than the grade possible at any other location in this vicinity. Under these conditions it is apparent that the public convenience and necessity to be served by the construction of Shell avenue is greater than would be served by the construction of a crossing at any other street between Washington boulevard and Lincoln boulevard, and at the same time the hazard of accident at this crossing is less than it would be at any other location in this territory. The evidence, therefore, shows that the Shell avenue crossing should be authorized.

The railroad contended that an automatic flagman should be provided for the protection of this crossing, but it appears that because of the relatively unobstructed view that obtains and the rather moderate amount of vehicular traffic that will use this crossing, and because of the fact that practically all of the trains stop at this point, it does not appear that conditions do justify the cost of this protection at this time.

#### ORDER.

City of Venice, a municipal corporation of the sixth class, in the county of Los Angeles, State of California, having made application for permission to construct public crossings at grade across the tracks of the Pacific Electric Railway Company, at Naples avenue, Shell avenue, Grande View avenue, Pisani place and Padua place, in said city of Venice, a public hearing having been held, the Commission being apprised of the facts and the matter being under submission and ready for decision;

*It is hereby ordered*, that Application No. 8378, Application No. 8447, and Application No. 8448, pertaining to the construction of Naples avenue, Pisani place and Padua place, respectively, be and they are hereby dismissed without prejudice.

*It is hereby further ordered*, that Application No. 8380, pertaining to the construction of a crossing at Grande View avenue, be and it is hereby denied.

*It is hereby further ordered*, that permission be and it is hereby granted said city of Venice to construct a public crossing at grade across the tracks of the Pacific Electric Railway Company at Shell avenue in the location shown on the map attached to Application No.



8379; said crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossing shall be borne by the applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by the applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Pacific Electric Railway Company.

(2) The crossing shall be constructed of a width not less than thirty (30) feet and at an angle of sixty (60) degrees to the railroad and with grades of approach not greater than ten (10) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11616.

IN THE MATTER OF THE APPLICATION OF R. C. DEAR FOR PERMISSION TO CONSOLIDATE OPERATIVE RIGHTS AND FRANCHISES AND AUTHORIZATION GRANTED IN APPLICATION No. 6798 FOR THE CARRYING OF PASSENGERS BETWEEN BAKERSFIELD, MCKITTRICK AND FELLOWS ON THE AUTO STAGE LINE, AND THE HANDLING OF EXPRESS IN CONNECTION THEREWITH.

Application No. 8404.

IN THE MATTER OF THE APPLICATION OF C. L. RHYNE AND HOMER RHYNE, OWNERS OF THE STAGE LINE OPERATING BETWEEN TAFT, FELLOWS AND MCKITTRICK, KERN COUNTY, AND INTERMEDIATE POINTS, FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER ALL THEIR RIGHTS, TITLE AND INTEREST IN THE ABOVE PASSENGER STAGE LINE, TO R. C. DEAR, AND FOR PERMISSION TO DISCONTINUE THEIR SERVICE; AND THE APPLICATION OF R. C. DEAR FOR AN ORDER GRANTING PERMISSION TO PURCHASE AND OPERATE SAID AUTO STAGE LINE.

Application No. 8405.

Decided February 6, 1923.

*E. F. Brittan*, for both Applicants.

*Alfred Simon*, for Kern County Transportation Corporation and for Boyd and Mattley Stage Company, Protestants.

*C. E. Wykes*, for Southern Pacific Company, Protestant.

*T. A. Woods*, for American Railway Express Company, Protestant.

*Rollin Laird*, for Bakersfield-Buttonwillow Stage Company.

BY THE COMMISSION.

## OPINION.

C. L. Rhyne and Homer Rhyne, brothers, operate a stage line for the transportation of passengers between Taft and McKittrick, in Kern County, serving intermediate points, including Fellows, which is six miles north of Taft and eleven miles south of McKittrick. R. C. Dear, on June 3, 1921, by our Decision No. 9042, was granted a certificate of public convenience and necessity to operate an automobile stage line for the handling of passengers and express matter between Bakersfield, McKittrick and Redwood, serving Buttonwillow and other intermediate points. In the applications here under consideration, heard before Examiner Eddy at Bakersfield, December 22, 1922, the Rhyne brothers seek permission to transfer to Dear for a consideration of \$8,500 all their right, title and interest in the Taft-McKittrick certificate, also certain equipment. The equipment consists of three seven-passenger cars, two Cadillacs valued at \$2,500 each, and one Willys-Knight valued at \$1,000; the goodwill, office furniture, etc., is figured at \$2,500. With the permission of the Commission, Dear will link up his line from Bakersfield to McKittrick with the Rhyne line from Taft to McKittrick, and will operate a through service between Fellows and Bakersfield via McKittrick. At the present time the Rhyne brothers operate eleven round trips a day between Taft and Fellows, and one round trip a day between Fellows and McKittrick. Dear makes two

round trips a day between Bakersfield and McKittrick, leaving Bakersfield at 8 a.m. and 3 p.m. The morning bus arrives at McKittrick at 9.20 a. m. and lays over at that point until 12.30 noon. Dear proposes to operate a through schedule between Bakersfield and Fellows via McKittrick, making two round trips a day and without requiring a transfer or lay-over at the latter point. Briefly stated, if the applications be granted, Dear will continue to make eleven round trips daily between Fellows and Taft, and instead of making one round trip daily between Fellows and McKittrick and two round trips daily between McKittrick and Bakersfield, will operate two through trips between Fellows and Bakersfield. A Sunday service will also be maintained.

The granting of the applications is opposed by the Kern County Transportation Company and the Boyd and Mattly Stage Company, each of which operates a passenger line between Bakersfield and Taft over the direct route via which the distance is 38.5 miles as compared with 56.1 miles via McKittrick. The distance from Bakersfield to Fellows via McKittrick is 50.1 miles, and via Taft 44.5 miles. The Kern County Transportation Company's stages operate seven round trips a day between Bakersfield and Taft, and make prompt connection with the Rhyne stages now operating between Taft and Fellows. The running time from Fellows to Taft is twenty minutes, and from Taft to Bakersfield one hour and twenty minutes. The running time from Fellows to McKittrick is twenty-five minutes, and from McKittrick to Bakersfield one hour and twenty minutes. In contrast with the seven round trips now offered residents of Fellows who desire to reach Bakersfield via Taft, but one round trip is now available via the McKittrick route, and but two round trips will be available over that route if these applications are granted. The Rhyne stage leaves Fellows for McKittrick at 12 noon, and persons living along the line between Fellows and McKittrick, when en route to Bakersfield, must change stages at McKittrick and wait at that point until 5 p.m., when the Dear stage departs for Bakersfield. If they desire to reach Bakersfield via Taft, they must make two transfers, the first at Fellows and the second at Taft, a condition which will not be changed under the arrangement proposed. For one reason or another, many patrons of stage lines dislike to transfer from one stage to another while en route, and it is probable, therefore, that the new arrangement will result in some increase in travel over the McKittrick route by residents of Fellows and the territory between that point and McKittrick. Although the distance from Fellows to Bakersfield via Taft is 44.5 miles, and via McKittrick 50.1 miles, the latter road is said to be the better, and there is but little difference in the running time over either route.

Taft is said to be the heart of the oil fields and the center of a territory comprising some 10,000 people. Fellows has a population of 800

or 900, and McKittrick 300 or 400; a considerable number of workmen, however, are employed on leases not far distant from these two towns. There can be no question but that the territory between Fellows and Taft and Taft and Bakersfield is now adequately served by the existing facilities. Furthermore, there is no question here as to the adequacy of the existing service between McKittrick and Bakersfield. The issue narrows down, therefore, to the adequacy of the existing service to Bakersfield from the eleven-mile strip of territory lying between Fellows and McKittrick. That territory is sparsely settled, and during the last year there has doubtless been a decline in population due to the generally unsatisfactory conditions in the neighboring oil fields. The population of the territory around Taft is said to have fallen off about one-third in the last year; between Fellows and McKittrick, however, some fifteen or twenty new leases have been opened up. The record indicates that at the time of the hearing one round trip a day was ample to take care of the local travel between Taft and McKittrick, and the applicant himself will not increase that service to two round trips per day unless permitted to operate a through service between Fellows and Bakersfield via McKittrick. The Rhyne brothers operated two trips daily between Fellows and McKittrick until July of last year, when business fell off to such an extent that but one trip a day was made. In view of the service to Bakersfield now afforded, residents of Fellows over the route via Taft, we see no public necessity for opening up a new through route from that point to Bakersfield via McKittrick. The travel from Fellows to Bakersfield is about one-tenth of the total traffic handled by the Kern County stages. Travel over that line has fallen off more than one-third in the past two years; although prepared to handle 130 passengers a day, the actual daily travel now consists of about sixty passengers as compared with eighty or eighty-five last year. There are on an average eight or nine empty seats per car. Were the applicant here granted permission to operate a through service between Fellows and Bakersfield via McKittrick, and to continue operation of a local service between Fellows and Taft the way would be opened by a rearrangement of schedules gradually to force travel via the McKittrick route to the detriment of the more direct route via Taft. This would result in a necessary diminution in the service now afforded between Taft and Bakersfield by the Kern County Stages and Boyd and Mattly.

The transfer to Dear of the Taft to McKittrick line now operated by the Rhyne brothers will be permitted, but the applicant, Dear, will not be permitted to operate a through service between Fellows and Bakersfield via McKittrick as prayed for, nor will he be permitted to make any change or rearrangement of the existing schedules either between Fellows and Taft, Fellows and McKittrick, or Bakersfield and

McKittrick without first securing the specific approval thereof by the Commission.

An order will be entered accordingly.

**ORDER.**

A public hearing having been held in the above entitled proceedings, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that Application No. 8404 be and the same is hereby denied.

*It is hereby further ordered*, that Application No. 8405 be and the same hereby is granted subject to the following conditions:

1. That applicant, R. C. Dear, shall file his written acceptance of the certificate herein authorized to be transferred, which written acceptance shall contain a statement to the effect that he fully understands the conditions under which such transfer is authorized and that no change or rearrangement of the existing schedules now being operated between Fellows and Taft and Fellows and McKittrick or Bakersfield and McKittrick will take place unless written permission therefor shall first have been obtained from the Railroad Commission.

2. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission, or any other rate-fixing body, as a measure of value of said property for rate-fixing or any purpose other than the transfer herein authorized.

3. Rhyne and Rhyne, co-partners, shall immediately cancel all tariff of rates and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 of the Railroad Commission.

4. R. C. Dear shall immediately file, in duplicate, in his own name, tariff of rates and time schedules, or adopt as his own the tariff of rates and time schedules filed by applicants, Rhyne and Rhyne, co-partners, all tariffs of rates and time schedules to be identical with those filed by applicants, Rhyne and Rhyne.

5. The rights and privileges herein authorized to be transferred shall not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

6. No vehicle may be operated by applicant Dear, unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11617.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO,  
IN THE STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT  
AND MAINTAIN A PUBLIC HIGHWAY CROSSING AT GRADE OVER  
THE RIGHT OF WAY AND TRACKS OF THE SOUTHERN PACIFIC  
RAILROAD AT BULLARD AVENUE IN THE SAID COUNTY.

Application No. 8412.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO,  
IN THE STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT  
AND MAINTAIN A PUBLIC HIGHWAY CROSSING AT GRADE OVER  
THE RIGHT OF WAY AND TRACKS OF THE SOUTHERN PACIFIC  
RAILROAD AT SHAW AVENUE IN THE SAID COUNTY.

Application No. 8413.

Decided February 6, 1923.

*Ray C. Wakefield*, for Applicant.

*F. B. Austin*, for Southern Pacific Company.

BY THE COMMISSION.

## OPINION.

In the above entitled applications the county of Fresno asked permission to construct two roads, approximately one mile apart, across the tracks of Southern Pacific Company, these roads being along the northerly and southerly lines, respectively, of section 10, township 13 south, range 14 east, M. D. B. and M. These matters were consolidated on hearing before Examiner Satterwhite in Fresno, December 13, 1922.

The purpose of these crossings is to give access to the land formerly owned by Miller and Lux west of the railroad, which is now being subdivided and sold. The territory in this vicinity is flat and the view open and unobstructed. The land is generally of an adobe nature and, because of this fact, roads which are not improved by paving or graveling are not satisfactory for traffic in wet weather. The county has improved the highway located along the easterly side of and adjacent to the railroad in this vicinity, with the result that all traffic desires to gain access to this highway as quickly as possible. The highway, however, crosses to the westerly side of the railroad approximately one mile north of the proposed Bullard avenue crossing.

There are relatively few residents actually located in the territory which these crossings would serve. Bullard avenue extends westerly from the railroad along the northerly line of sections 7, 8, 9 and 10, but the first mile west of the railroad has not been oiled. Beginning at a point about a mile west of the track, this road has been improved by oiling for a distance of about one and one-half miles west. Shaw avenue extends westerly from the railroad along the southerly line of sections 7, 8, 9 and 10, and has been oiled only for the first mile west of the railroad. In addition to a few scattered farmhouses along Bullard avenue and Shaw avenue, there is a pumping station of the

Standard Oil Company located near Shaw avenue. There is a road known as Washoe avenue extending north from Shaw avenue along the westerly line of sections 4 and 9 to Herndon avenue, which, in turn, connects with the county highway after it has crossed to the west side of the track. It is therefore apparent that most of the residents of section 4 could, by means of Washoe avenue and Herndon avenue, reach the county highway nearly as directly as by Bullard avenue and with the added advantage that, instead of crossing the railroad twice, no crossing of the railroad would be required in going to Firebaugh. The inconvenience, however, for a similar procedure by the residents along Shaw avenue is sufficiently great, located as it is a mile further south of Herndon avenue, as to justify the construction of the proposed crossing at Shaw avenue and give these people a direct outlet to the county highway on the easterly side of the railroad.

The railroad over which it is proposed to construct these crossings is the main line of Southern Pacific Company on the west side of the San Joaquin Valley. There are operated over this track four high-speed passenger trains and ordinarily four freight trains daily.

There is a private crossing located approximately 800 feet south-easterly from the proposed Shaw avenue crossing which should be closed upon the opening of Shaw avenue across the railroad.

In view of all the testimony in these proceedings, we are convinced that the present development of this territory justifies the installation of a grade crossing at Shaw avenue and permission for this will be granted, but that the time has not yet come when a crossing is justified at Bullard avenue and the application for that crossing therefore will be denied.

#### ORDER.

The board of supervisors of the county of Fresno having made application for permission to construct Bullard avenue (Application No. 8412) and Shaw avenue (Application No. 8413), respectively, at grade across the tracks of Southern Pacific Company, a public hearing having been held, the Commission having been apprised of the facts and the matter being under submission and ready for decision;

*It is hereby ordered*, that the above entitled application relating to the construction of Bullard avenue at grade across the track of Southern Pacific Company (Application No. 8412) be and it is hereby denied.

*It is hereby further ordered*, that permission be and it is hereby granted the board of supervisors of the county of Fresno to construct Shaw avenue at grade across the track of Southern Pacific Company in the location as described as follows:

Commencing at the point of intersection of the section line between sections 10 and 15, township 13 south, range 14 east, M. D. B. and M., with the southwesterly right of way line of the Southern Pacific Railroad; running thence north 35 degrees

37 minutes west along the southwesterly right of way line of said railroad a distance of 36.35 feet to a point on the north property line of Shaw avenue; thence north 88 degrees 46 minutes east along the proposed north property line of said avenue a distance of 121.17 feet to a point on the northeasterly right of way line of said railroad; thence south 35 degrees 37 minutes east along the northeasterly right of way line of said railroad, a distance of 72.70 feet to a point on the south property line of said avenue; thence south 88 degrees 46 minutes west along the proposed south property line a distance of 121.17 feet to a point on the southwesterly right of way line of said railroad; thence north 35 degrees 37 minutes west along the southwesterly right of way line of said railroad a distance of 36.35 feet to the point of commencement.

All of the above as shown by the map attached to Application No. 8413, subject to the following conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by the applicant. The cost of its maintenance up to a line two (2) feet outside the rails shall be borne by the applicant. The maintenance of that portion of the crossing between the rails and two (2) feet outside thereof shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of fifty-five (55) degrees and thirty-seven (37) minutes to the railroad, and with grade of approach not greater than four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereof of vehicles and other road traffic.

(3) The existing private crossing located approximately 813 feet southeasterly from the crossing therein authorized shall be abandoned and effectively closed.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective fifteen (15) days after the making thereof.

Dated at San Francisco, California, this sixth day of February, 1923.



## DECISION No. 11618.

IN THE MATTER OF THE APPLICATION OF A. J. SCRIBNER, FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AUTO TRUCK FREIGHT SERVICE BETWEEN LOS  
ANGELES, GLENDALE, MONTROSE, LA CANADA, FLINTRIDGE, LA  
CRESCENTA, TEJUNGA AND SUNLAND AND INTERMEDIATE  
POINTS.

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Application No. 8428.

Decided February 6, 1923.

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*Chas. H. Tribit, Jr.*, for Applicant.

*N. C. Folsom*, for Richardson Transportation Company, Protestant.

*C. W. Cornell*, for Pacific Electric Railway, Protestant.

BY THE COMMISSION.

**OPINION.**

The above entitled application, heard before Examiner Eddy at Los Angeles, December 27, 1922, seeks a certificate of public convenience and necessity to operate an automobile truck freight service twice a week between Los Angeles and Sunland, a distance of about twenty miles, serving as intermediate points Montrose, La Canada, Flintridge, La Crescenta and Tejunga. The applicant owns two trucks, a Republic of two and one-half tons capacity, and the other, a one and one-half ton Ford. For some time past he has been operating between Los Angeles and Sunland, but on an hourly or contract basis. He testified that there is need and demand in that general territory, which is now experiencing a rapid growth, for some one to handle commodities such as plaster board, cement, plumbers' supplies and lumber. One lumber company, for whom he has been hauling, brings in three or four tons of material every week; a supply company at Tejunga is said to receive a carload of cement every month or six weeks and during the building season plumbers' supplies are used in considerable quantities. The territory in question is now served by the Richardson Transportation Company, the trucks of which leave Sunland daily at 7 a.m. and leave Los Angeles on the return trip at 1 p.m. There was considerable testimony to the effect that this schedule does not meet the requirements of those desiring to ship fruit from this section to the Los Angeles market. It is essential that the fruit be delivered at the market by 3 a.m. and Scribner has been doing considerable hauling of this character for fruit growers who either do not own trucks or who ship in lots so small as to make it unprofitable to haul their own produce to market. This seems to have been particularly true in the past with respect to the movement of grapes, the shipping season for which lasts for a month or more. Richardson testified that if there is a demand for a special service of this character, he is willing to put on during the grape shipping season a schedule to take care of it.

There was no testimony to indicate that in any other respect the service of Richardson was unsatisfactory and did not fully meet the requirements of the communities served by his line. As a matter of fact, two witnesses called by the applicant testified that the service now being performed for them by Richardson was adequate and entirely satisfactory. Richardson testified that during the past year and a half he has been able to handle all of the business offered him and has never been obliged to leave any freight behind; furthermore, he is in a position to put on any additional equipment that may be necessary to take care of the traffic requirements of the communities involved.

The record indicates that public convenience and necessity do not require the operation by the applicant of the proposed service and the application will, therefore, be denied.

#### ORDER.

A public hearing having been held in the above entitled matter, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of February, 1923.

#### DECISION No. 11619.

IN THE MATTER OF THE APPLICATION OF DAVID SCHMIDT AND F. K. EMICH FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR FREIGHT AND EXPRESS LINE BETWEEN FRESNO AND YETTEM VIA ORANGE COVE AND FOR A CHANGE OF ROUTE.

Application No. 8437.

Decided February 6, 1923.

*F. K. Emich*, for Applicant.

*B. Levy*, for Atchison, Topeka and Santa Fe Railway Company.

*M. N. B. Speck* and *Ed Stern*, for American Railway Express.

BY THE COMMISSION.

#### OPINION.

The above entitled application was heard before Examiner Eddy at Fresno on January 12, 1923.

The applicants are engaged in operating a motor truck, freight and express service between Fresno and Cutler, via Dinuba, Sultana and Orosi. As amended at the hearing the application now asks for an extension of operative rights so as to include also the town of Yettem, about  $2\frac{1}{2}$  miles beyond Cutler and distant from Fresno 41 miles. Yettem is an Armenian colony with a population of 400 and is nearly 2 miles removed from the railroad station of the same name on the Atchison, Topeka and Santa Fe Railway.

The Santa Fe operates a daily service from Fresno to Yettem station, the distance via that line being 38 miles. Freight received at its station in Fresno prior to 4 p.m. on any given date arrives at Yettem station at noon the following day. Trains leaving Fresno at 7 a.m. and 4.50 p.m. carry express and arrive at Yettem station at 8.40 p.m. and 6.03 p.m., respectively. But whether shipped by freight or express the merchandise must be hauled from the station at Yettem to the town itself. During the month of November, 1922, the Santa Fe hauled 26,036 pounds of merchandise from Fresno to Yettem. The rates of that line per 100 pounds for the first four classes are 25, 21, 17½ and 15 cents, respectively; the first-class rate of the American Railway Express Company is 99 cents and the second-class rate 74 cents; fruits and vegetables are handled under a special commodity rate of 72 cents. The applicants propose to handle fresh fruits and vegetables in standard crates, boxes or sacks at 50 cents per 100 pounds; the rates on other commodities vary from 20 cents to 50 cents per 100 pounds. Under the schedule submitted with the application the applicants' truck would leave Fresno at 9 o'clock in the morning, arriving at Yettem at 1 p.m.; on the return trip the truck would leave Yettem at 1 p.m. and arrive at Fresno at 4:30 p.m.

Other than one of the applicants, no witnesses appeared in support of the application. This witness testified that there are four stores in Yettem and the proprietors would not leave their places of business to attend the hearing. Each, however, signed a form letter asking that the application be granted, largely for the reason that it was now necessary to truck their merchandise from the railroad station, which haul would be obviated were the desired certificate issued to the applicants.

In view of the service now being rendered by the Atchison, Topeka and Santa Fe Railway Company and the American Railway Express Company to the community at Yettem, and the failure of the applicant to show that public convenience and necessity require the operation of the trucking service here proposed, the application will be denied.

#### ORDER.

A public hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of February, 1923.

DECISION No. 11620.  
BAY CITY HAULING COMPANY

vs.

J. H. TRUITT.

Case No. 1847.

Decided February 6, 1923.

COMMON CARRIER—HAULING PRODUCE FROM RANCHES TO COMMISSION HOUSES FOR  
COMPENSATION WITHOUT A CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY IS ILLEGAL—DISTRICT ATTORNEYS NOTIFIED.

F. W. Nigthingill, for Complainant.

J. H. Truitt in propria persona.

BY THE COMMISSION:

OPINION.

Chew Gong and Chew Chick, copartners doing business under the firm name and style of Bay City Hauling Company, filed a formal complaint with the Railroad Commission in which they allege that J. H. Truitt, defendant herein, has been operating automobile trucks in the transportation of produce for compensation over a regular route and between fixed termini in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto in that he has never obtained from the Railroad Commission a certificate of public convenience and necessity authorizing him to engage in such business, as required under the provisions of section 5 of the above numbered statutory enactment.

A public hearing was held upon the above entitled complaint before Examiner Eddy on January 10, 1923, at San Francisco, California, at which time the matter was submitted and it is now ready for decision.

The complaint in effect recites that defendant herein has been transporting garden produce from points in Santa Clara and San Mateo counties to certain commission merchants located in San Francisco, specifically named in the complaint; that such transportation has been conducted at a fixed rate per sack, crate or bunch, according to the kind of commodities handled.

Defendant in his answer contends that he is not operating as a common carrier, but that the produce transported by him for the grower is subject to the grower's directions and orders and is delivered to whatever commission house the grower may direct, the commission house deducting the transportation charge from the receipts of the sale of such produce and paying such transportation charges to defendant herein.

Complainant in support of its allegations called as witnesses some four commission men located in the city and county of San Francisco,

who testified to the fact that defendant had been hauling and delivering daily to them farm produce for which they paid a fixed rate, deducting such rate from their remittance to the consignor. There was also introduced in evidence as an exhibit a bill submitted by defendant herein to the Santa Cruz Produce Company, showing transportation conducted from October 8th to 12th, inclusive, listing the commodities transported and the charges for such transportation.

Defendant contends that he was not hauling for compensation, but was in effect, a partner of the producers for whom he transported commodities, basing his belief that he was a copartner upon the fact that he had advanced certain sums to the growers and considered himself as a copartner in their farming activities. These sums, he admitted later, had been, in the main, repaid, and that actually he had no copartnership interest whatsoever with any of the consignors for whom he transported produce, nor was he in any way interested in the revenues or expenses of their farming operations.

Chapter 213, Statutes of 1917, as amended by chapter 280, Statutes of 1919, not only includes within the provisions thereof, what may be strictly construed as common carriers, but also the operators of trucks engaged in the transportation of property for compensation over a regular route or between fixed termini, who might be termed limited or so-called contract haulers. Unquestionably, defendant herein, has been engaged in the transportation of property for compensation over a regular route and between fixed termini, and inasmuch as he has never secured a certificate of public convenience and necessity authorizing him to engage in such business, as required under the provisions of section 5 of chapter 213, Statutes of 1917, and amendments thereto, his operation is unlawful and in violation of the provisions of the above numbered statutory enactment.

#### ORDER.

A public hearing having been held upon the above entitled proceeding, evidence submitted and the Commission being fully advised:

It is hereby found as a fact that J. H. Truitt, defendant herein, is operating an automobile trucking service, transporting property for compensation over a regular route and between fixed termini, in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto; and

*It is hereby ordered*, that said J. H. Truitt be and he hereby is directed to immediately and permanently discontinue said service until such time as he has complied with the provisions of chapter 213, Statutes of 1917, and amendments thereto; and.

*It is hereby further ordered*, that the secretary of the Railroad Commission be and he hereby is directed to forward, by registered mail, a

copy of the within decision to the district attorney of the city and county of San Francisco and the district attorneys of the counties of Santa Clara and San Mateo, California.

Dated at San Francisco, California, this sixth day of February, 1923.

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DECISION No. 11621.

E. J. MEAD

vs.

LA RICA WATER COMPANY.

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Case No. 1849.

Decided February 6, 1923.

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*E. J. Mead, in propria persona.*

*F. O. Frazier, for La Rica Water Company.*

*S. M. Walker, for Baldwin Park Domestic Water Company.*

BY THE COMMISSION.

OPINION.

The complainant herein, E. J. Mead, asks that the defendant, La Rica Water Company, be compelled to reinstall a meter on the domestic water connection to this property near Baldwin Park, Los Angeles County, California, which he alleges was removed without his knowledge or consent, causing damage to his fruit trees and lawn and which defendant refuses to replace.

Defendant in its answer alleges that the meter was removed by one Jacob Miller, tenant on the Mead property, with defendant's consent, domestic service having been received since that time from the Baldwin Park Domestic Water Company. Defendant further alleges that there is and at all times has been available the irrigation services to the premises from the plant of the La Rica Water Company.

This matter was heard before Examiner Williams in Los Angeles on January 24, 1923, at which time all parties at interest were given an opportunity to appear and be heard.

Testimony presented at the hearing was to the effect that Baldwin Park Domestic Water Company, a public utility, holds a franchise from the county covering this territory and stands ready to serve water to all applicants for its service; that defendant is essentially interested in serving water for irrigation but has, as an accommodation, supplied domestic service to a few consumers, though it does not desire to render such service as a regular portion of its business; that defendant holds no county franchise covering the territory involved and as a matter of fact entered the field after the acquisition of the above mentioned franchise of the Baldwin Park Domestic Water Company; that both domestic and irrigation service were formerly received from defendant

by occupants of complainant's premises and that irrigation water in even very limited quantities has been furnished at all times when required; that the tenant Miller did, with knowledge of complainant and with his consent, ask and receive domestic water service from the Baldwin Park company; that tenant Miller caused domestic service from defendant to be discontinued because of his objection to the quality of the water. The testimony does not indicate that any damage to the property of complainant has been, or need be, suffered.

Complainant stated that he desires that domestic service be maintained to his property by both companies and that in addition he desires defendant to continue the service of irrigation water. This desire was based on the assumption that the combined service would be cheaper than if received from the Baldwin Park company alone. The fact is that it is only when relatively large quantities of water are used that such a result would follow, and the record of consumption upon the Mead property shows that in only four months since June 1, 1920, has the minimum of 500 cubic feet been exceeded and only once would the combined minima of the two companies have been equalled. There appears to be little merit to this manner of reducing domestic water charges.

Careful consideration of all the evidence presented leads to the conclusion that there is no reason before the Commission making it necessary or reasonable to disturb the conditions now existing.

#### ORDER.

E. J. Mead having made formal complaint before this Commission against La Rica Water Company, alleging refusal of said company to reinstall a meter on the domestic water connection to the property of complainant, a public hearing having been held and the matter having been duly submitted:

It is hereby found as a fact that sufficient reason for granting the relief sought was not presented. And basing the order upon the foregoing finding of fact and upon the further statements of fact contained in the preceding opinion;

*It is hereby ordered*, that the complaint as entitled above be and the same is hereby dismissed.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11622.

IN THE MATTER OF THE PRACTICE OF W. J. McKINLEY IN THE  
OPERATION OF AN AUTOMOBILE STAGE LINE AS A COMMON  
CARRIER OF PASSENGERS AND EXPRESS BETWEEN REDLANDS  
AND BANNING AND INTERMEDIATE POINTS, CALIFORNIA.

Case No. 1860.

Decided February 6, 1923.

*J. W. Barbce*, for W. J. McKinley, Respondent.  
*W. F. Lemon*, for Railroad Commission.

BY THE COMMISSION.

## OPINION.

Under date of December 22, 1922, the Commission issued its order to W. J. McKinley to appear and show cause why the certificate heretofore granted him under Decision No. 7844 on Application No. 5866 (decided May 12, 1919) should not be revoked and annulled because of alleged unauthorized lease of said operative right and further through the transfer of said operative right without the written consent of this Commission therefor.

A public hearing was conducted at Los Angeles by Examiner Williams, at which time defendant responded to the order in person and by counsel.

In substance respondent was charged with having permitted Bert Eagler and O. T. Addington to use their own vehicles in the operation of the passenger service of respondent between Redlands and Banning, via Beaumont, for certain periods without proper leases.

Eagler was produced as a witness in behalf of the Commission. He testified that he operated the line for respondent for a period of six months, being paid a salary of \$175 a month; that in emergencies he used his own car for which he received a rental of \$4 a day; that he accounted once a week or thereabouts, to McKinley for the receipts which approximated \$350 a month, and that he received directions from McKinley almost daily at Beaumont. At other times when he drove cars on the route for respondent he testified he received only a salary weekly.

W. J. McKinley, respondent, testified in confirmation of all that Eagler testified to. He further testified that O. T. Addington had never operated the line except as a driver at \$145 a month and denied that he had permitted Addington to operate on a verbal lease by which Addington paid respondent \$50 monthly. He further denied ever making a lease or transfer of the operative rights to any one, though he admitted giving an option to the United Stages for purchase, said option to expire in October, 1923.



Addington was not produced as a witness and a continuation for his attendance was not asked.

The testimony of Eagler was contradicted by W. F. Lemon, a service inspector of the Commission, who testified the witness had told him he had operated his own car over the route for several months, during which respondent gave no attention to the service. Lemon also testified Addington admitted to him that he was operating his own car and paying respondent \$50 monthly for this privilege.

At the conclusion of the testimony counsel for respondent moved dismissal of the order on the ground of insufficient evidence. We are of the opinion that under the testimony no other course remains except to grant the motion.

#### ORDER.

An order having been issued on December 22, 1922, to W. J. McKinley to show cause why his certificate granted him under his Application No. 5866 by Decision No. 7844 should not be revoked, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

*It is hereby ordered*, that the order herein be and the same hereby is dismissed.

Dated at San Francisco, California, this sixth day of February, 1923.

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#### DECISION NO. 11623.

IN THE MATTER OF THE APPLICATION OF E. C. COATS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE BETWEEN MARYSVILLE, YUBA COUNTY, AND DOWNEVILLE, SIERRA COUNTY.

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Application No. 8541.

Decided February 6, 1923.

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*Ray Maurell*, for Applicant.  
*W. E. Wright*, for Eureka Express Company, Protestant.  
*W. P. Rich*, for Pauly Brothers, Protestants.

BY THE COMMISSION.

#### OPINION.

The applicant herein seeks a certificate of public convenience and necessity to operate an automobile freight line daily between Marysville in Yuba County and Downieville in Sierra County, via Browns Valley, Dobbins, Bullards Bar, Camptonville and Goodyears Bar. At the hearing held before Examiner Eddy at Marysville on January 19, 1923, request was made to amend the application so as to provide for service only between May 1st and November 1st.

The applicant owns eight trucks and has been operating over this route on a schedule more or less regular for the past three years with-

out having secured from the Commission a certificate of public convenience and necessity as required by the law. During the season of 1922 he began operation about May 1st and averaged three trips a week.

The application, therefore, is really a proceeding to put the stamp of legality on what has heretofore been an unlawful operation. This unauthorized service for so long a period is in and of itself a sufficient justification for denying to the applicant the desired certificate, were it not that the records show that there is a demand for a service of that character which the applicant is in a position to supply. No other truck line operates between Marysville and Downieville and the condition of the roads and needs of the communities are such as not to permit or require operation during the winter season.

Protests were filed by Pauly Brothers, who operate a stage line between Marysville and Camptonville, and by Henry German, who operates a line between Nevada City and Downieville via Camptonville. These two stage lines are equipped to and now handle small packages between Marysville and Downieville, but the operators thereof recognize the necessity also of a truck line that will transport only bulky and heavy freight. Applicant testified that while he did not care to carry small packages that would bring him in competition with the existing stage lines or to handle shipments from one consignor to one consignee, weighing less than 500 pounds, he felt that he should be permitted to handle smaller packages as an accommodation to his patrons and in case of an emergency. After an informal conference between the parties in interest it was agreed that the situation could be taken care of by recognizing the proposed service as an exclusive freight service and fixing the minimum charges accordingly, regardless of the weight of the article to be transported. In other words, in view of the expressed desire and intention of the applicant to transport only heavy and bulky freight, leaving the handling of smaller packages to the existing stage lines, it was felt that the public could be better served were the applicant's minimum charge made sufficiently high to discourage the sending of small packages via that line rather than in fixing a high minimum weight for the package itself. The fixation of this minimum charge was left to the discretion of the Commission.

It is apparent that there is a real public need in the territory involved for such a service as the applicant now proposes to render and the desired certificate will be granted, subject, however, to the express condition that the minimum charge on any single package weighing 200 pounds or less from one consignor to one consignee shall be the rate for a shipment weighing 200 pounds between the points involved. The minimum charge therefore under the scale of rates submitted with

the application would be between Marysville and Camptonville, \$1.50, and between Marysville and Downieville, \$2.00.

An order will be entered accordingly.

#### ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by E. C. Coats of an automobile stage line as a common carrier of freight between Marysville and Downieville, California, serving the intermediate points of Browns Valley, Dobbins, Bullards Bar, Camptonville and Goodyears Bar; and

*It is hereby ordered*, that a certificate of public convenience and necessity for the period May 1st to November 1st of each year be and the same hereby is granted, subject to the following conditions:

1. That applicant shall handle no single shipment from one consignor to one consignee weighing 200 pounds or less except at the minimum rate provided therefor, which shall be a rate of not less than \$1.50 between Marysville and Camptonville and \$2.00 between Marysville and Downieville, unless such rates shall be subsequently changed or altered through written authorization of the Railroad Commission.

2. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed forty (40) days from date hereof, such tariff of rates and time schedules to be identical with those as filed with the application herein as Exhibits "A" and "B"; and shall commence operation of the service herein authorized within a period of not to exceed one hundred and twenty (120) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract of agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11624.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISE GRANTED TO APPLICANT BY ORDINANCE No. 185 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN; ORDINANCE No. 209 OF THE BOARD OF TRUSTEES OF THE TOWN OF MILL VALLEY; AND ORDINANCE No. 283 OF THE BOARD OF TRUSTEES OF THE TOWN OF SAUSALITO, COUNTY OF MARIN, STATE OF CALIFORNIA.

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Application No. 8579.Decided February 6, 1923.

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*C. P. Cutten*, for Applicant.*BRUNDIGE*, Commissioner.**OPINION.**

This is an application by Pacific Gas and Electric Company for an order of the Railroad Commission of the State of California, granting it a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges of three distinct franchises granted to Pacific Gas and Electric Company by: The board of supervisors of the county of Marin, California; the board of trustees of the town of Mill Valley, county of Marin, California; and the board of trustees of the town of Sausalito, county of Marin, California. A hearing in these matters was held in San Francisco on January 24, at which time testimony was taken and stipulations made as to the claims of value of said franchises.

Pacific Gas and Electric Company is constructing a six-inch high pressure pipe line for the purpose of transporting and distributing gas from Corte Madera to Mill Valley and Sausalito. This line is being constructed along private rights of way and also public highways and thoroughfares. Franchises for such construction have been duly obtained from the appropriate authority. The company proposes to put into effect its Schedule G-8 which is the rate for gas service now being charged in all of the smaller districts supplied by it.

Prior to starting construction work upon this gas transmission line, Pacific Gas and Electric Company obtained from the Board of Supervisors of the county of Marin a franchise under Ordinance No. 185, effective October 5, 1922, granting it the privilege of laying and maintaining gas pipe lines in the public streets, highways and roads of Marin county for the purpose of supplying gas for all lawful purposes to inhabitants of said county. A second franchise similarly providing for the construction and operation of pipe lines for the supplying of gas to the inhabitants of the town of Mill Valley was granted

to applicant by the board of trustees of the town of Mill Valley by Ordinance No. 209, effective November 9, 1922. A third franchise providing for the construction and operation of a system of gas pipe lines in the town of Sausalito was granted by the board of trustees of the town of Sausalito by Ordinance No. 283, effective December 31, 1922. Copies of the three above mentioned franchises have been duly filed with the Railroad Commission as a part of the company's application in this matter.

Testimony of applicant alleges that gas service is desired by a large number of inhabitants of the towns of Mill Valley and Sausalito and adjacent territory who have for some time indicated their desire to obtain such service for heat, light, power and other useful purposes; and further, that no other person, firm or corporation other than applicant is at present engaged in furnishing gas service in said towns of Mill Valley and Sausalito or immediate vicinity. Evidence before the Commission and its investigations indicate the above statements to be facts. It therefore appears that public convenience and necessity do require the exercise by applicant of franchise rights in order to permit the rendering of service.

Pacific Gas and Electric Company has duly filed with the Railroad Commission a copy of resolutions by its board of directors and a stipulation under its corporate seal, dated January 17, 1923, stipulating that neither the company nor its successors nor assigns would ever claim before the Railroad Commission or before any court or other public authority a value for the rights and privileges granted: By franchise under Ordinance No. 185 of the county of Marin, by franchise under Ordinance No. 209 of the town of Mill Valley, and by franchise under Ordinance No. 283 of the town of Sausalito, in excess of the actual cost to Pacific Gas and Electric Company of acquiring said franchises, which cost is stipulated to be the sum of \$100 each.

It is hereby found as a fact that public convenience and necessity require the exercise by Pacific Gas and Electric Company of the rights and privileges of franchises granted it by: Ordinance No. 185 of the county of Marin, Ordinance No. 209 of the town of Mill Valley and Ordinance No. 283 of the town of Sausalito.

#### ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges granted under the following franchises:

- (1) Ordinance No. 185 of the county of Marin.
- (2) Ordinance No. 209 of the town of Mill Valley.
- (3) Ordinance No. 283 of the town of Sausalito.

A hearing having been held, and copies of said franchises and stipulations as to the claims for value thereof having been duly filed in forms satisfactory to the Commission;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of the franchise rights and privileges granted by the following ordinances:

- (1) Ordinance No. 185 of the county of Marin.
- (2) Ordinance No. 209 of the town of Mill Valley.
- (3) Ordinance No. 283 of the town of Sausalito.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of February, 1923.

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DECISION No. 11625.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS COMPANY,  
A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY.

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Application No. 8491.

Decided February 6, 1923.

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*Frank A. Cressey, Jr.*, for Applicant.

*MARTIN*, Commissioner.

**OPINION.**

This is an application by Modesto Gas Company for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges granted by a certain franchise under Ordinance No. 123 of the county of Stanislaus, California. A hearing was held in San Francisco, on December 27, 1922, before Commissioner Martin, and the matter taken under submission.

Applicant was granted by the board of supervisors of Stanislaus County, a franchise under Ordinance No. 123, dated November 16, 1922, providing for the construction, maintenance and operation of a system of pipe lines for the distribution of gas for lighting, cooking, heating, power and other useful purposes along public streets, thoroughfares, highways and alleys leading from the city of Modesto to all parts of Stanislaus County.

Prior to the present time applicant has been engaged in rendering gas service only to inhabitants within the city of Modesto. There has, however, been a recent building development in a tract of land lying to the north of the city and a number of new houses have been constructed

in that district. Gas service has been requested by the occupants of these houses, and applicant has informed the Commission that it can properly render such service and desires to do so. Evidence before the Commission shows that no other utility is engaged in the rendering of gas service in the territory for which applicant herein requests a certificate to exercise its franchise rights.

Subsequent to the hearing of this matter, the President and Secretary of Modesto Gas Company duly filed with this Commission a stipulation under the corporate seal of the company, dated January 15, 1923, certifying that neither Modesto Gas Company nor its successors nor assigns would ever claim before the Railroad Commission or any court or any other public authority, a value for the rights and privileges granted by Ordinance No. 123 of the county of Stanislaus in excess of the actual cost to Modesto Gas Company of acquiring said franchise, which cost is stated in said stipulation to be the sum of \$327.40.

I find as a fact that public convenience and necessity require the exercise by Modesto Gas Company of the rights and privileges of the franchise granted by Ordinance No. 123 of the county of Stanislaus.

I submit the following form of order :

#### ORDER.

Modesto Gas Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges under a certain franchise granted by Ordinance No. 123 of the county of Stanislaus, California, a hearing having been held, copies of said franchise and a stipulation as to its claim for value thereof having been duly filed in form satisfactory to the Commission :

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require, the exercise by Modesto Gas Company of the rights and privileges granted under Ordinance No. 123 of the county of Stanislaus, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of February, 1923.

## DECISION No. 11626.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND  
POWER CORPORATION FOR REVISION AND ADJUSTMENT OF  
RATES.

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Application No. 6651.

(Supplemental)

Decided February 7, 1923.

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

The Railroad Commission by Decision No. 11189, dated October 31, 1922, requires San Joaquin Light and Power Corporation to set aside to its depreciation reserve for electric properties, on or before January 1, 1923, an amount sufficient to bring this reserve to a total of \$2,380,995 as of December 31, 1921. The decision of the Commission also requires the company to set aside to its depreciation reserve, commencing with the calendar year 1922, the sum of \$467,893 per annum, plus an amount per annum equal to that computed on the annuity rates as set forth in Table No. 12 in the opinion of Decision No. 10348 on all net additions to depreciable capital made on or after January 1, 1922; and to set aside annually commencing with the calendar year 1922 to its depreciation reserve, in addition to the annuity above, an amount equal to 6 per cent on an accrued depreciation in the amount of \$2,380,995 plus all net additions to depreciation reserve made on or after January 1, 1922, in accordance with the decision.

In computing the annuity, no allowance was included for depreciation on transportation equipment for the reason that both operating and replacement charges for such equipment were included in operating expenses or charged to capital, depending on the use of the equipment. The company, therefore, asks that it be relieved from accruing interest on the reserve accumulated to replace transportation equipment and to carry such reserve separate and apart from its electric plant reserve for depreciation. It is estimated that there is in the reserve for depreciation to replace transportation equipment the sum of \$175,908 as of December 31, 1921. This amount is included in the \$2,380,995 mentioned in Decision No. 11189. Deducting the \$175,908 from the \$2,380,995 leaves a balance of \$2,205,087 which should be in the company's depreciation reserve to replace electric properties.

In Decision No. 10348, dated April 25, 1922, the Commission included in the rate base general capital representing the sum of \$416,168.68, on which no depreciation annuity was calculated. This amount includes the transportation equipment. The Commission will relieve the company from accruing interest on the \$175,908, but will at the same time require



the company to deduct this amount from the \$416,168.68, so that in any future rate proceedings, the company's investment in transportation equipment may be calculated at its depreciated value rather than at the original cost.

The Commission having considered applicant's request believes that it should be granted as herein provided and that Decision No. 11189, dated October 31, 1922, should be amended; therefore,

*It is hereby ordered*, that Conditions 1, 2, and 3 of the order in Decision No. 11189, dated October 31, 1922, reading:

That San Joaquin Light and Power Corporation:

(1) Set aside to its depreciation reserve for electric properties on or before January 1, 1923, an amount sufficient to bring this reserve to a total of \$2,380,995 as of December 31, 1921.

(2) Set aside to its depreciation reserve, commencing with the calendar year 1922, the sum of \$467,893 per annum, plus an amount per annum equal to that computed on annuity rates as set forth in Table No. 12 in the opinion of Decision No. 10348 on all net additions to depreciable capital made on and after January 1, 1922.

(3) Set aside annually commencing with the calendar year 1922 to its depreciation reserve in addition to the annuity above, an amount equal to 6 per cent upon an accrued depreciation of \$2,380,995, plus all net additions to depreciation reserve made on and after January 1, 1922, in accordance with this order.

be and they are hereby modified and amended so as to read:

That San Joaquin Light and Power Corporation:

(1) Set aside to its depreciation reserve for electric property on or before February 15, 1923, an amount sufficient to bring this reserve to a total of \$2,205,087 as of December 31, 1921.

(2) Set aside to its depreciation reserve commencing with the calendar year 1922 the sum of \$467,893 per annum plus an amount per annum equal to that computed on annuity rates as set forth in Table No. 12 in the opinion of Decision No. 10348 on all net additions to depreciable capital made on and after January 1, 1922.

(3) Set aside annually commencing with the calendar year 1922 to its depreciation reserve in addition to the annuity above, an amount equal to 6 per cent upon an accrued depreciation of \$2,205,087, plus all net additions to depreciation reserve made on and after January 1, 1922, in accordance with this order.

This order shall become effective on the date hereof.

*It is hereby further ordered*, that Decision No. 11189, dated October 31, 1922, shall remain in full force and effect, except as amended by this supplemental order.

Dated at San Francisco, California, this seventh day of February, 1923.

## DECISION No. 11627.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY FOR AUTHORITY TO PURCHASE AND ACQUIRE ALL OF THE PROPERTY OF SANTA MARIA GAS AND POWER COMPANY, CERTAIN OF THE PROPERTIES OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION, TO INCREASE CERTAIN RATES NOW CHARGED FOR NATURAL GAS BY MIDLAND COUNTIES PUBLIC SERVICE CORPORATION, AND FOR PERMISSION TO ISSUE CERTAIN SECURITIES.

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Application No. 5550.

Decided February 7, 1923.

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BY THE COMMISSION.

## ELEVENTH SUPPLEMENTAL ORDER.

Good cause appearing:

*It is hereby ordered*, that Midland Counties Public Service Corporation be and it is hereby authorized to use \$5,856.45, received in part payment of the \$82,000 6 per cent three-year note referred to in Decision No. 7708, dated June 9, 1920, to finance in part the cost of additions and betterments referred to in Schedule A filed in this proceeding on February 5, 1923, which cost is reported at \$13,950.

*It is hereby further ordered*, that the order in Decision No. 7708, dated June 9, 1920, as amended, shall remain in full force and effect, except as modified by this eleventh supplemental order.

Dated at San Francisco, California this seventh day of February, 1923.

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DECISION No. 11629

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO MAINTAIN AND OPERATE A SPUR TRACK AT GRADE ACROSS ANAHEIM STREET IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, NEAR THE INTERSECTION OF OREGON AVENUE AND ANAHEIM STREET.

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Application No. 8315.

Decided February 8, 1923.

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C. W. Cornell, for Applicant.

BY THE COMMISSION.

## OPINION.

This is an application by Pacific Electric Railway Company for permission to maintain and operate a spur track at grade across Anaheim street in the city of Long Beach, State of California.

A public hearing was held on this application in Los Angeles on December 7, 1922, before Examiner Williams.

The prayer of the original application asked that authority be granted to construct the crossing, but since it was developed at the hearing that the crossing has actually been constructed across Anaheim street, the Pacific Electric amended its application to the extent of asking for authority to maintain and operate over the crossing.

Applicant showed that in September, 1921, there were negotiations between Mr. George M. La Shell, who desired the construction of this spur track, and representatives of the Pacific Electric, with the result that certain plans and estimates were prepared and presented to Mr. La Shell as to the feasibility of giving spur track service to that portion of his property lying north of Anaheim street and east of Oregon avenue.

It appears that subsequently Mr. La Shell had this track constructed by the United Commercial Company, with the exception of the actual connection with the Pacific Electric, and it was upon the application of Mr. La Shell to the railroad company to make this connection that the matter was brought before the Commission in this proceeding.

A traffic count indicates that Anaheim street is a very heavily traveled thoroughfare. It is the main east and west thoroughfare through this district, and the public hazard due to the installation and operation of an additional railroad track across this important thoroughfare is not to be viewed lightly. On the other hand, the vicinity in which Mr. La Shell's warehouse is constructed is an essentially industrial territory, and a certain amount of spur track service is absolutely necessary for proper industrial development.

If there were any feasible manner of serving an industry without crossing this thoroughfare, service should be arranged in that manner; and although in this case it would be physically possible to construct a spur to serve Mr. La Shell's plant without crossing Anaheim street, there are certain right of way conditions which appear to make such a plan not feasible. It is to be noted that Mr. La Shell or any private party may not legally invoke the right of eminent domain whereby such a right of way can be condemned. Neither can a right of way be condemned for a spur track like this by a carrier.

Section 43 (a) of the Public Utilities Act clearly provides that no track of any railroad corporation shall be constructed across any road, highway, or street at grade without first having secured the permission of the Commission, but at the time this track was constructed it appears that technically it was not the track of a railroad corporation as that term is defined in section 1 (j) of this act.

It might be thought, from the manner in which this proceeding was brought, involving, as it did, such an important thoroughfare, that it was the result of collusion between the railroad and the industry to technically evade the provision of the Public Utilities Act, but the evidence does not indicate that any such collusion existed. Had we been con-

vinced of such collusion, our decision necessarily would have been quite different.

In view of the public convenience and necessity for spur track service for the warehouse of Mr. La Shell and all the circumstances involved, we are of the opinion that this application should be granted.

#### ORDER.

Pacific Electric Railway Company having made application for permission to maintain and operate a spur track at grade across Anaheim street in the city of Long Beach, State of California, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to maintain and operate a spur track at grade across Anaheim street in the city of Long Beach, State of California, in a location approximately at the east line of Oregon avenue prolonged southerly as shown by the map C. E. H. 6285 marked Exhibit "C," and attached to the amended application in this proceeding; said crossing to be maintained and operated subject to the following conditions, viz:

(1) The entire expense of maintaining the crossing in good and first class condition with rails flush with the pavement for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be protected by a suitable crossing sign and in every way made safe for the passage thereover of vehicles and other road traffic.

(3) No engine, car, or train shall be operated across said crossing without a member of the train crew having first preceded such engine, car, or train over said crossing for the purpose of warning approaching highway traffic.

(4) Cars shall be operated over said crossing for the purpose of serving the warehouse now owned by Mr. George M. La Shell only.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective ten (10) days after the making thereof.

Dated at San Francisco, California, this eighth day of February, 1923.

## DECISION No. 11636.

IN THE MATTER OF THE APPLICATION OF FROST AND FROST TRUCKING COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK SERVICE BETWEEN REDLANDS AND SAN PEDRO, CALIFORNIA.

Application No. 8658.

Decided February 9, 1923.

BY THE COMMISSION.

ORDER.

M. L. Frost and W. H. Frost, doing business under the fictitious name of "Frost and Frost Trucking Company," have filed an application with the Railroad Commission in which they apply for a certificate authorizing them to engage in the operation of an automobile truck line as a common carrier of oranges, lemons and fertilizer between Redlands and Los Angeles harbor at San Pedro. The present application is for a certificate authorizing operation for a limited period only pending filing of an action upon an application for permanent certificate.

It appears from statements contained in the application that an emergency exists with reference to the transportation of oranges and lemons from packing houses in and adjacent to the city of Redlands, for movement by boat from San Pedro harbor. These packing houses have contracted for space on boats scheduled to leave the harbor within a limited period, and have arranged with applicant to transport the fruit by trucks from Redlands to the harbor. It is, therefore, necessary in order to avoid delay and possible interference with the pending shipment of perishable commodities that a certificate be issued at once authorizing the applicant to transport the fruit in question.

From statements in the application it appears that applicant has four 2½-ton trucks, one 1-ton truck, four 4-ton trailers and one 2-ton trailer immediately available for this service, and proposes to charge a rate of \$4.85 per ton.

From the facts shown, it appears that the necessity for additional transportation facilities to meet an emergency exists only as to the shipment of oranges and lemons and not as to fertilizer. In absence of a more complete showing of public convenience and necessity in the matter of transportation of non-perishable commodities, no authorization will be granted herein to haul fertilizer. For similar reasons the authorization herein granted will be limited to operations only for the period: February 9 to 12, 1923, inclusive, unless an extension of such time is hereafter secured by supplemental order of the Railroad Commission.

The Railroad Commission hereby declares that public convenience and necessity require the operation by M. L. Frost and W. H. Frost, copartners, doing business under the fictitious name of "Frost and Frost Trucking Company," of auto trucks as a transportation company during the period: February 9 to 12, 1923, inclusive, between Redlands and San Pedro, California, for the transportation of oranges and lemons only from packing houses located in and adjacent to Redlands to the docks at San Pedro for shipment by vessel from said last named point; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same is hereby granted for the operation by said applicants as a transportation company, in accordance with the foregoing declaration, subject, however, to the following conditions and limitations:

The operations herein authorized shall be conducted only during the period: February 9 to 12, 1923, inclusive, unless otherwise ordered by supplemental order of the Railroad Commission.

Applicants shall not, under the authorization herein granted, transport any commodities whatsoever, except oranges and lemons destined from packing houses in and adjacent to the city of Redlands to San Pedro, California, for water shipment.

All transportation conducted under the certificate herein granted shall be at the rate of \$4.85 per ton.

Dated at San Francisco, California, this ninth day of February, 1923.

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DECISION No. 11640.

IN THE MATTER OF THE FILING BY ABBOT KINNEY COMPANY, A CORPORATION, OF ITS SCHEDULE OF RATES AND REGULATIONS FOR THE SALE OF HIGH PRESSURE SALT WATER, STEAM AND HOT WATER.

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Application No. 7936.

Decided February 9, 1923.

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**PUBLIC UTILITY.**—Salt water for fire protection furnished a municipality under private contract is not a public utility service. Railroad Commission has no jurisdiction, regulation or control.

*Asa V. Call*, for Applicant.

*Chas. W. Lyon*, for City of Venice.

*E. W. Savago*, for Consumers in City of Venice.

BY THE COMMISSION.

**OPINION.**

The applicant herein, Abbot Kinney Company, has offered for filing and asks the Railroad Commission to approve a certain schedule of rates, charges and regulations governing the service by applicant of hot water, steam heat and water for fire protection.

Public hearings were held before Examiner Williams in Los Angeles, testimony was taken and exhibits submitted by applicant and the Commission, covering the appraisal and operating expenses of the plant involved in this proceeding, and the matter was thereupon submitted.

Applicant maintains a central station boiler plant in the city of Venice, generating steam for operating fire pumps and for furnishing steam heat to eighteen consumers and hot water service to twenty-nine customers in the vicinity, as well as for providing hot and cold salt water for use mainly at applicant's beach resort bath house and plunge.

The fire protection service is rendered to the city of Venice and the pleasure pier of applicant, and has previously been provided for under the terms of a certain contract, dated February 6, 1906, but now expired, which prescribed the requirements of the service and fixed the charge therefor. Subsequent to the expiration of this contract the board of trustees of the city of Venice, under date of October 31, 1921, ordered that the city of Venice pay to Abbot Kinney Company the sum of \$756 monthly for the salt water fire-protection service rendered. This charge is materially in excess of the charge previously made under the contract and because of certain protests from taxpayers of the city of Venice no payments have been made for this service under the provisions of the order of the board of trustees. After careful consideration of the evidence we are of the opinion that, as to this fire-protection service, applicant is not rendering public utility service. This service has been rendered under private contract during the whole period of this company's existence, and no service of this nature is rendered to any other purchaser, nor has there been any offer of such service to the public generally. As to this service, applicant is, therefore, not subject to the jurisdiction, regulation or control of this Commission.

It is, however, apparent from the evidence produced at the said hearings, that applicant's service of steam heat and hot water as rendered by applicant is public utility service and is subject to this Commission's jurisdiction.

Applicant now has in effect the following general rates and regulations for steam heat and hot water service:

#### RATES.

##### *For the Service of Steam Heat:*

Rate—22½ cents per square foot of heating surface per month.

##### *For the Service of Hot Water:*

A. Applicable to service to restaurants, barber shops, and other commercial purposes.

Rate—\$6.75 per tap per month where five or less openings are served.  
\$0.75 per tap for all in excess of five.

B. Applicable to service to hotels, apartment houses, etc.

Rate—\$0.75 per opening per month where nine or more openings are served.

Minimum charge—\$6.75 per month.

#### REGULATIONS.

1. Company furnishes hot water and steam heat to its consumers throughout the 24 hours each day.

2. Consumers are required to pay bills for service rendered within thirty days after the first of the month next succeeding furnishing of service. Upon failure to make payment in accord with above rule, service is subject to discontinuance.

The evidence in this proceeding indicates that applicant's proposed rates and charges for steam heat and hot water are not excessive and that they should be approved and accepted for filing.

#### ORDER.

Abbot Kinney Company, a corporation, having applied to the Railroad Commission for an order authorizing the filing of its present rates, rules and regulations covering the service of hot fresh water and steam heat to its consumers, and the approval of a certain contract with the city of Venice for fire protection service; hearings having been held and the matter submitted; the Railroad Commission being of the opinion that Abbot Kinney Company is a public utility as regards the supplying of service of hot fresh water and steam heat, and being of the further opinion that it is not a public utility as regards the rendering of fire-protection service to the city of Venice.

*It is hereby ordered*, that Abbot Kinney Company file with the Railroad Commission within twenty (20) days of the date of this order, the schedules of rates and charges for steam heat and hot water together with the rules and regulations governing each of the above classes of service hereinafter set forth:

#### RATES.

*For the Service of Steam Heat:*

Rate—22½ cents per square foot of heating surface per month.

*For the Service of Hot Water:*

A. Applicable to service to restaurants, barber shops, and other commercial purposes.

Rate—\$6.75 per tap per month where five or less openings are served.

\$0.75 per tap for all in excess of five.

B. Applicable to service to hotels, apartment houses, etc.

Rate—\$0.75 per opening per month where nine or more openings are served.

Minimum charge—\$6.75 per month.

#### REGULATIONS.

1. Company furnishes hot water and steam heat to its consumers throughout the 24 hours each day.

2. Consumers are required to pay bills for service rendered within thirty days after the first of the month next succeeding furnishing of service. Upon failure to make payment in accord with above rule, service is subject to discontinuance.

The effective date of this order is hereby designated as March 1, 1923.

Dated at San Francisco, California, this ninth day of February, 1923.



## DECISION No. 11641.

IN THE MATTER OF THE APPLICATION OF CURTIS RANCH COMPANY  
FOR AN ORDER AUTHORIZING IT TO SELL AND TRANSFER ITS  
WATER SYSTEM.

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Application No. 8056.

Decided February 9, 1923.

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*Carnahan and Clark, by H. S. Carnahan, and Garfield Jones, for Applicant.*

BY THE COMMISSION.

## OPINION.

In the above entitled application, as amended by permission at the hearing, the Curtis Ranch Company asks for authority to transfer its public utility water system in and in the vicinity of Bloomington, San Bernardino County, California, to Henry B. Learned, as trustee for himself and for R. T. Burge, E. G. Hart and H. C. Parker as legal owners. In the amended application Learned et al. join with the Curtis Ranch Company in asking approval of the transfer.

A public hearing was held in the matter before Examiner Williams at Los Angeles, of which proper publication was made and those interested given an opportunity to appear and be heard.

It appears from the testimony submitted that the Curtis Ranch Company, incidental to its land operations, installed a water system for the convenience of its employes and residents of the adjacent village of Bloomington. Water was obtained through the ownership of shares of stock of the Citizens Land and Water Company, a mutual company. A storage reservoir was built and distribution pipe lines installed to those desiring domestic water service under pressure.

The transfer of this utility is also incidental to the transfer of the property of the Curtis Ranch Company, known as the "Curtis Ranch," to Mr. R. T. Burge and his associates, the consideration being a ninety-nine year lease of a business block and building at the southwest corner of the intersection of Sixth street and Grand avenue in the city of Los Angeles. No separate agreed price was placed on the water system. However, testimony shows that the cost of the system was between \$10,000 and \$11,000.

The testimony shows Mr. H. B. Learned to be a responsible man. He intends to give the utility his personal attention. In fact, he has had personal supervision of the operation of the water system since the transfer of the ranch property on April 1, 1922.

No one appeared to protest the granting of the application, and it appears that the interests of the water users on the system will be as well if not better served if such transfer is authorized.

## ORDER.

Proper application having been made, a hearing having been held and the matter being ready for decision;

*It is hereby ordered*, that Curtis Ranch Company be and it is hereby authorized to sell and convey to Henry B. Learned as trustee for R. T. Burge, E. G. Hart, H. C. Parker and himself as the legal owners, a certain water distributing system in and in the vicinity of Bloomington, San Bernardino County, California, together with lands and other property pertaining thereto, more particularly described as follows:

I. Ten shares of capital stock of the Citizens Land and Water Company.

II. Concrete reservoir and site located on Lot No. 309 of the Semi-Tropic Land and Water Company as shown upon a map thereof, recorded in the office of the county recorder of San Bernardino County, Book 11, page 12 of maps, and particularly described as follows:

Commencing for a point of beginning at the interesection of the common boundary line between Farm Lot 304 and 309 and the easterly line of Larch avenue, thence easterly 320 feet along said common boundary line; thence southerly and parallel to said Larch avenue 124.46 feet; thence westerly and parallel to said common boundary line of Lots 304 and 309; 320 feet to said easterly line of Larch avenue; thence northerly along said easterly line of Larch avenue 124.46 feet to place of beginning.

III. All pipes and mains used in the distribution of water in connection with its public utility business as shewn upon a map thereof filed and attached to the application.

The authorization herein granted is subject to the following conditions and none other:

1. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before April 1, 1923, and a certified copy of the instrument of conveyance shall be filed with the Commission by Curtis Ranch Company within thirty (30) days from the date on which it is executed.

3. Within ten (10) days from the date on which Curtis Ranch Company actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this ninth day of February, 1923.

## DECISION No. 11642.

IN THE MATTER OF H. H. BEARD FOR AN ORDER ESTABLISHING  
RATES FOR WATER SUPPLIED AT DOS RIOS, IN THE COUNTY OF  
MENDOCINO, STATE OF CALIFORNIA.

Application No. 8294.

Decided February 9, 1923.

*H. H. Beard, in propria persona.*

BY THE COMMISSION.

OPINION.

H. H. Beard, applicant herein, is engaged in the business of supplying water for domestic and industrial purposes to consumers in the unincorporated town of Dos Rios, Mendocino County, California. In this proceeding applicant does not ask for an increased rate but requests that the Commission establish rates for water service in the town of Dos Rios.

A public hearing was held in this matter before Examiner Eddy, at Dos Rios, of which applicant's consumers were duly notified and given an opportunity to appear and be heard.

The evidence shows that applicant began serving water for compensation in 1911 to the Utah Construction Company in connection with the construction of the Northwestern Pacific Railroad in the vicinity of Dos Rios. Water service was afterwards extended to the inhabitants of Dos Rios as well as to the Northwestern Pacific Railroad Company.

At present applicant is serving six consumers at the following monthly rates: domestic service, \$2.50; schoolhouse, \$2.50; store in connection with living quarters for the manager's family and two extra rooms for rent, \$5.00; Northwestern Pacific Railroad Company, supplied from the overflow of applicant's storage tank, \$5.00.

The water for the system is obtained from natural springs, at sufficient elevation to serve all consumers by gravity. The system consists of small concrete collecting chambers at the springs, approximately 8,000 feet of 1-inch black pipe, 800 feet of 1-inch steel cable to support the pipe at the river crossing, and a 4,000-gallon redwood tank.

At the hearing Mr. J. G. Hunter, one of the Commission's hydraulic engineers, submitted an estimate of the investment in operative property. This report shows the estimated original cost of applicant's water system exclusive of water rights to be \$1,073, and the replacement annuity computed by the sinking fund method as \$20. A

reasonable annual maintenance and operation charge was estimated to be \$120. No objections were made to these estimates.

Allowing full return on the investment, exclusive of an allowance for water rights, the annual charges would be as follows:

Interest return on \$1,073 at 8 per cent	\$86 00
Replacement annuity 6 per cent sinking fund	20 00
Maintenance and operation expenses	120 00
Total	\$226 00

Investigation by the Commission's engineer shows that the annual revenues are about \$240, which amount excludes the possible revenue from applicant's use of water on his own premises. This would indicate that applicant is earning somewhat more than is usually considered to be a fair return.

It appears that the method of fixing the charges for the various consumers has been more or less arbitrary and has caused some complaint. The schedule of rates set out in the following order will serve as a basis for fixing charges to all consumers and adjust any inequalities that may exist in the present rates, and is designed to provide the maintenance and operation charges, a replacement fund, and yield to applicant a fair return on the investment in used and useful property, in which is included a proper allocation of value for the water rights involved in furnishing this public utility service.

#### ORDER.

H. H. Beard having applied to the Railroad Commission for an order establishing rates for water service in the unincorporated town of Dos Rios, Mendocino County, California, a public hearing having been held and the matter being submitted:

It is hereby found as a fact that the rates now charged by H. H. Beard in so far as they differ from the rates herein established are unjust and unreasonable, and that the rates herein established are just and reasonable rates for water delivered by applicant to consumers in Dos Rios.

And basing its order upon the foregoing finding of fact, and on the other statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, by the Railroad Commission of the state of California that H. H. Beard be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days of the date of this order the following schedule of rates, said rates to be charged for all water delivered to consumers on and after March 1, 1923:

## MONTHLY FLAT RATES.

Residences and rooming houses, three rooms or less, without toilet or bath, occupied by not more than two people-----	\$1 50
For each additional room-----	10
For each additional person-----	25
For each patent toilet-----	25
For each bath tub-----	25
For each horse or cow-----	20
For each automobile-----	25
Restaurants and cafes, with seating capacity of ten or less-----	1 50
For each additional chair-----	10
For sprinkling lawns and gardens, per 100 sq. ft. actually irrigated-----	04
Stores, shops, offices-----	1 00
Northwestern Pacific Railroad, to be supplied only from overflow from utility's tank-----	5 00
Public school-----	2 50
Barber shop, single chair-----	2 00
For each additional chair-----	50
Blacksmith and repair shops-----	2 00
Garages-----	2 50

*It is hereby further ordered*, that H. H. Beard be and he is hereby directed to file with the Railroad Commission for its approval, within thirty (30) days from the date of this order, rules and regulations governing service to his consumers, said rules and regulations to become effective upon their approval and acceptance by the Commission.

Dated at San Francisco, California, this ninth day of February, 1923.

## DECISION No. 11643.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE DEPARTMENT OF PUBLIC WORKS, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING UNDER THE TRACKS OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, NEAR WILLITS, MENDOCINO COUNTY, CALIFORNIA.

Application No. 8354.

Decided February 9, 1923.

*C. C. Carleton*, for Applicant.

*R. W. Palmer*, for the Northwestern Pacific Railroad Company.

*C. C. Morris*, for the United States Bureau of Public Roads.

BY THE COMMISSION.

## OPINION.

This is an application for an order authorizing the substitution of a one-span steel and concrete structure, in lieu of an existing five-span pile trestle, carrying the tracks of the Northwestern Pacific Railroad Company across the state highway about four (4) miles south of Willits, Mendocino County, and apportioning the cost thereof.

Public hearings were held in San Francisco on December 8, 1922, and January 6, 1923, before Examiner Eddy.

The evidence shows that the highway at the point of crossing does not follow the route of the previously existing main county road between Ukiah and Willits. This county road crossed the railroad at grade a short distance north of the proposed crossing; and when the new highway was relocated and constructed, the California Highway Commission arranged with the railroad for a separation of grades. As the railroad was on a fill, a timber trestle was constructed, two spans of which are over the highway and a part of the embankment removed. This work was done in the latter part of 1913 or early in 1914, applicant indicating that the change was made to get into a position to cross under the tracks instead of at grade.

The highway is the trunk route between San Francisco and Eureka and the railroad, at this point, is the main line of the Northwestern Pacific, also between San Francisco and Eureka. As constructed, the present crossing is objectionable because one of the trestle bents is located in the highway and is particularly objectionable because, instead of being located parallel to the highway, it is at such an angle thereto that the clear widths of openings normal to the center line of the highway are but approximately ten feet, whereas the clear width prescribed by the Commission's General Order No. 26 is twelve feet minimum for each span. While there is actually in excess of twelve feet between the bents, the effective clearance on a high-speed highway of this kind can not be considered except as the clear width at right angles to the center line of the highway. Furthermore, the side clearances prescribed by General Order No. 26 are minima, suitable for relatively unimportant roads and this general order should not be construed as permitting these minimum clearances on the more important highways.

There is no objection to the removal of the trestle and the construction of the proposed undercrossing, which would provide, according to the plans submitted with the application, one opening twenty-four feet wide in the clear, except on the part of the railroad, which objects to paying any part of the cost of making this change, for the reason that the cost would amount to more than the capitalized cost of the actual saving in maintenance, estimated at \$2,000, less the loss due to the destruction of the present structure before the end of its useful life, estimated at \$800.

The evidence, including the data furnished since the close of the last hearing, indicates that the applicant expended \$1,583.80 and the railroad \$2,108.49 for the removal of the fill and the construction of the present trestle, which together form the present separation of grades. At the close of the hearing it was agreed between the engineers of the applicant, the railroad and the Commission that the proposed structure could be installed in place of the present one for \$8,300, if the



work were done by the railroad and if the center line of the highway were located at railroad engineer station 7076+07.3, or approximately through the center of the trestle bent now dividing the highway. Also that there was no serious objection on the part of the engineer of applicant to the location of the center line of the highway at this engineer station. Thus the total cost of grade separation will amount to \$11,792.29, as follows:

Original expenditure by applicant for trestle.....	\$1,383 80
Original expenditure by railroad for trestle.....	2,168 49
Estimate to change to steel and concrete.....	8,300 00
	<hr/>
	\$11,792 29

Deducting the amount already expended by each party from one-half of the total above results in a balance to be paid by each party which compare as 45 per cent for the railroad and 55 per cent for the applicant.

If the parties had come to the Commission with a similar proceeding at the time the present grade separation was effected, the cost would, no doubt, have been divided equally between the applicant and the railroad, taking into consideration that a grade crossing was eliminated and that the separated grade crossing was practically a substitute for the existing crossing at grade, although at a different location. Either party could have applied to the Commission for a determination of the kind of structure and the apportionment of the cost and, therefore, should now be given equal consideration.

Under the circumstances, it appears equitable if the railway pay 45 per cent and the applicant 55 per cent of the cost of substituting the proposed concrete and steel structure for the existing timber structure.

While a permissive order, as distinguished from a mandatory order, is asked for in this proceeding, we wish to call attention to the fact that, in our judgment, the present crossing with a skew bent in the center of a highway will be extremely hazardous to travelers on the highway when it is paved and becomes a high-speed road. Our experience has shown that many accidents are caused by vehicles colliding with such a bent where it is located on what might be termed a high-speed highway and it will be ordered that, when the highway is paved, as applicant shows is now being done, so as to permit of relatively high-speed travel, the present structure shall be superseded by the one proposed in the instant case.

#### ORDER.

The people of the State of California, on relation of the Department of Public Works, having applied to the Commission for an order authorizing the construction of a state highway crossing under the

tracks of the Northwestern Pacific Railroad Company at a location approximately four (4) miles south of Willits and apportioning the cost thereof, public hearings having been held, the matter having been submitted and now ready for decision;

*It is hereby ordered*, that the people of the State of California, on relation of the Department of Public Works, and Northwestern Pacific Railroad Company be and they are hereby directed to construct a crossing under the tracks of Northwestern Pacific Railroad Company at a location approximately four (4) miles southerly from Willits, Mendocino County, as hereinafter specified, superseding the existing timber trestle at the same location, said crossing to be constructed as follows:

(1) Said crossing shall be constructed before or at the time the state highway at the location of said crossing is paved.

(2) Said crossing shall be constructed so that the center line of state highway shall be located at engineer station 7076+07.3 of Northwestern Pacific Railroad Company, which is the point at the intersection of the center line of said railroad with the center line of said highway, as shown by white line on applicant's Exhibit B.

(3) Said crossing shall be constructed, except as herein otherwise specified, substantially in accordance with applicant's Exhibit A.

*It is hereby further ordered*, that applicant shall pay 55 per cent and Northwestern Pacific Railroad Company shall pay 45 per cent of the cost of substitution of said crossing for the existing timber trestle supporting said railroad, it being understood that the cost of pavement on said state highway is not included in the said cost of substitution.

The Commission reserves the right to make further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke this permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this ninth day of February, 1923.



## DECISION No. 11644.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE, TRACKS ACROSS CERTAIN PUBLIC HIGHWAYS IN THE CITY OF GLENDORA AND IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND AT GRADE ACROSS THE RAILROADS OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, IN CONNECTION WITH THE CONSTRUCTION OF ITS PROPOSED RAILROAD FROM A POINT IN ITS PRESENT RAILROAD LINE IN THE CITY OF GLENDORA, THENCE IN A GENERAL EASTERLY AND SOUTHERLY DIRECTION TO A CONNECTION WITH ITS LOS ANGELES-SAN BERNARDINO LINE AT LONE HILL, IN SAID COUNTY OF LOS ANGELES.

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Application No. 8369.

Decided February 9, 1923.

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*W. R. Miller*, for Applicant.*R. B. Bidwell*, City Attorney, for City of Glendora.*J. S. MacIntyre* and *W. A. Johnson*, for San Dimas Chamber of Commerce.*G. W. Corrigan*, for Southern Pacific Company.

BY THE COMMISSION.

## OPINION.

In this application the Pacific Electric Railway Company asks for two things, namely:

(1) Certificate of public convenience and necessity for the construction of its proposed railroad from a point in the city of Glendora southeasterly to a connection with its Los Angeles-San Bernardino line at Lone Hill.

(2) The necessary authority to construct this track and two spurs incident thereto across certain public roads, streets, highways, and railroads.

This proceeding is substantially the same as that presented in Application No. 3383 which was, by Decision No. 5192, denied because of war conditions then existing.

A public hearing on this matter was held in the city of Glendora before Examiner Williams on December 6, 1922.

The proposed railroad is to begin at the present terminus at the intersection of the Glendora line of the Pacific Electric Railway with the easterly line of North Minnesota avenue in the city of Glendora, extend easterly a few hundred feet and thence curve southerly along the easterly side of North Banna avenue. After crossing the main line of The Atchison, Topeka and Santa Fe Railway Company's main track a little over one-half mile south of the point of beginning, the proposed line turns easterly, practically parallel to the Santa Fe on its southerly side, for a distance of about two miles and thence easterly approximately one mile and a half to a connection with the San Bernardino line of applicant at Lone Hill.

The purpose of this railroad is to give a direct access from the Monrovia and Glendora sections to San Bernardino and Colton and Riverside districts. It is now necessary for freight and passengers moving between these two districts to be carried into Los Angeles and thence back again, the Glendora-Los Angeles line being approximately parallel to the Los Angeles-San Bernardino line. This situation is alleged to be particularly serious as to freight movement.

A considerable portion of the freight originating in the Monrovia and Glendora districts is citrus fruits, destined to eastern markets, and for such shipments Colton is the gateway, when moved by either Southern Pacific Company or Los Angeles and Salt Lake Railroad Company. To haul this freight into Los Angeles, a considerable delay is encountered in getting it through the congested yards, and evidence indicates that this delay is something in excess of one day. This delay is an important factor in the handling of such perishable freight, but, in addition to the delay, there is actual additional cost for handling. It is estimated that there will be shipped over this proposed line approximately five hundred cars of citrus fruit per year. In addition to this traffic, applicant expects to ship approximately five hundred cars of rock, which originates on the present Glendora line and will be destined to local points east, such as San Dimas and points beyond.

The movement of this freight, by way of Los Angeles, is hampered by the fact that applicant's franchises through the cities of Monrovia and South Pasadena, restrict the movement of freight to the night, and when this restriction is considered, for not only the traffic above mentioned, but also the rock and other traffic destined to Los Angeles and points north, the operating convenience that will be afforded applicant by the construction of the proposed line is emphasized.

The vice president and general manager of the Pacific Electric Railway Company testified that the proposed line is estimated to cost \$367,000, including the cost of right of way already purchased and amounting to \$72,000. He also estimated that there would be created additional passenger traffic to amount to \$40,000 and additional freight traffic to the amount of \$68,000 or a total of \$108,000 gross revenue created, and that after allowing for anticipated increase in operating expenses, there would be, as a minimum, \$32,400 additional net income resulting from the operation of this line. On this basis, the return on the additional investment from new traffic alone would amount to approximately 9 per cent, although, as far as the new traffic itself is concerned, it was admitted that the line was largely competitive with existing facilities.

The traffic already obtained by applicant in this territory is such that elimination of a 60-mile excess haul made possible by the construction of a four-mile line is an important factor. Local fruit growers and business men appear to be unanimous in their desire for the added service which will be made available to their community upon the construction of this line.

In view of these facts, we are of the opinion that the public convenience and necessity justify the construction of this railroad as proposed by the applicant.

Incident to the construction of the above described main line, the following streets, roads and highways will be crossed in the unincorporated portion of Los Angeles County:

- (1) Cienega avenue.
- (2) Covina boulevard.
- (3) Juanita avenue.
- (4) Gladstone avenue.
- (5) Allen avenue.
- (6) Compromise road (sometimes known as Alostia avenue).
- (7) South Loraine avenue.

The following streets, roads and highways will be crossed within the incorporated limits of the city of Glendora:

- (8) Ellwood avenue.
- (9) Glenwood avenue.
- (11) East Lemon avenue.
- (11-A) East Carroll avenue.
- (12) East Ada avenue.
- (13) East Minnehaha avenue (sometimes known as Foothill boulevard).

In addition to the crossings of the main line, a proposed spur which will diverge from the main line immediately south of the crossing of The Atchison, Topeka and Santa Fe Railway Company's main track and extending westerly approximately one-half mile along the southerly side of the Santa Fe right of way for the purpose of serving a citrus packing house, would cross the following streets in the city of Glendora:

- (15) South Pasadena avenue.
- (18) Glendora avenue.

There is also proposed a spur track in the unincorporated portion of Los Angeles County which would cross the following road:

- (20) Juanita avenue.

In addition to the above crossings, the original application requested

permission to construct a track across the following streets in the city of Glendora:

- (10) East Fourth street.
- (14) North Banna avenue.
- (16) South Wabash avenue.
- (17) Alley between Glendora and South Wabash avenues.
- (19) South Santa Fe avenue.

Inasmuch as it appears that North Banna avenue has never been officially dedicated as a public street at the point of crossing, and as it appears that East Fourth street, South Wabash avenue, alley between Glendora and South Wabash avenues, and South Santa Fe avenue have been vacated by ordinances of the city of Glendora, permission to construct these crossings is not now necessary.

As has been indicated above, the proposed line will also cross the main line of The Atchison, Topeka and Santa Fe Railway Company in the city of Glendora. It will also cross a spur track of the Santa Fe near Allen avenue, and the Covina branch of the Southern Pacific near Lone Hill, both of the latter being in the unincorporated portions of Los Angeles County.

Conditions at each of the public streets, roads or highways and railroad which is necessary to be crossed, will now be briefly described:

No. 1. Cienega avenue is a paved road which carries a considerable rural and some through traffic; the view is obstructed by orange and lemon groves in all directions and under these conditions it appears proper that the crossing of this road should be protected by an automatic flagman.

No. 2. Covina boulevard is a relatively important through highway rather heavily traveled; the view is partially obstructed in all directions by orange and lemon groves and in addition to the protection of an automatic flagman, this crossing should be given the additional protection of having a member of the train crew proceed the train and flag the crossing in all cases where a car precedes a locomotive in passing over the crossing.

No. 3. Juanita avenue. The view at this crossing is somewhat obstructed on two corners but the road has but little highway traffic and is relatively unimportant.

No. 4. Gladstone avenue is a graded dirt road and at the point of crossing the view is somewhat obstructed in two directions. The road carries but little traffic and is relatively unimportant.

No. 5. Allen avenue is also a dirt road and the view is obstructed on one corner. This road carries practically no highway traffic.

No. 6. Compromise road, sometimes known as Alostia avenue, is a macadamized road, the surface of which is not at present in good

condition. It carries a through traffic and should be classed as a moderately important road. The view is practically unobstructed. The proposed railroad is adjacent to the main line of the Santa Fe at this location and although the conditions of traffic do not justify the installation of an automatic flagman at this time, such protection will undoubtedly be necessary at such time as the road is improved with a good quality hard surface pavement.

No. 7. South Loraine avenue. The conditions at this crossing are very similar to the conditions at the Compromise road crossing, except that there is a partial obstruction of view. The traffic is considerably less and more local in nature. Here also an automatic flagman does not seem to be required at this time but should be installed at such time as a good quality hard surface pavement is constructed.

No. 8. Ellwood avenue in the city of Glendora is a graveled street; the view is partially obstructed in three directions by citrus groves but the highway traffic on this street is quite light.

No. 9. Glenwood avenue is also a graveled street, with a partial obstruction of view in all directions but the street has but a slight amount of use.

No. 11. East Lemon avenue is an unimportant graveled street at which the view is not seriously obstructed, except in one direction.

No. 11-A. East Carroll avenue is also a relatively unimportant graveled street. The view, however, is rather seriously obstructed on two corners.

No. 12. East Ada avenue is a relatively unimportant graveled street at which the view is quite seriously obstructed at three corners of the intersection.

No. 13. Minnehaha avenue. This is by far the most important highway involved in this proceeding. This street, sometimes known as the Foothill boulevard, is the route of the state highway through the city of Glendora. The traffic is ordinarily very heavy and on Sundays and holidays is congested. Applicant estimated that there would be from six to eight passenger trains each way daily over this new line in addition to one or two freight trains.

The highway at this location is on a two per cent descending grade toward the west, while the railroad is on a one and one-half per cent descending grade to the south and is located in South Banna avenue. This street is sixty feet in width, with the center line of the railroad located ten feet from the east property line, according to the plan filed with the application. The view is seriously obstructed in all directions at the intersection of Banna avenue and Minnehaha avenue. Applicant's engineer estimated that the cost of separating the grade of the railroad at Minnehaha avenue at \$100,000 but admitted that

this figure was approximate, stating that no detailed study had been made.

Applicant's general manager stated that, in his opinion, the line would not be built if applicant were required to expend an additional \$100,000 at Minnehaha avenue for separating grades, but no showing was made that this sum would be the cost, and this Commission can not proceed to authorize a grade crossing of this importance upon so little evidence as to its necessity.

Every year considerable sums are expended in this state to eliminate grade crossings and the establishment of a grade crossing with such a heavily traveled and important highway as Minnehaha avenue should not be lightly passed upon. It is usually most economical to provide the separation of grades concurrently with the initial construction of the railroad, rather than to separate the grades thereafter. The rapid growth in population and in the number of motor vehicles in this section of California, together with the increase of railroad traffic, lead to the conclusion that the separation of the grades of the railroad and Minnehaha avenue should be a condition upon which granting of this application is made.

The order will provide that plans and specifications for the separated grade crossing shall be submitted to the Commission for approval. This will require a careful investigation of all the possibilities and cost, but need not delay the work of constructing the new line if a diligent investigation is made and the results promptly submitted to the Commission.

No. 15. South Pasadena avenue. This is a crossing of the proposed spur track south of the Santa Fe track; the view is partially obstructed; the street is not paved and the railroad traffic over this spur will probably be very light.

No. 18. Glendora avenue is a relatively important street that has not been paved; the view is unobstructed except in one direction and this street is also one that crosses the proposed spur only.

No. 20. Juanita avenue. This is a crossing of Juanita avenue, above referred to in crossing No. 3, across a second proposed spur. The necessity for construction of this spur was not established and under this circumstance permission for this grade crossing will be denied.

#### *Railroad Crossings.*

The crossing of the main line of The Atchison, Topeka and Santa Fe Railway Company is the most important railroad crossing. Although notified of the hearing, the Santa Fe did not enter an appearance. Applicant has agreed with the Santa Fe upon the terms for the installation, maintenance and operation of this crossing if

made at grade. If made at grade, the crossing should be protected by a first-class interlocking plant, which, the evidence indicated, will cost \$27,000. According to the agreement made with the Santa Fe, this first cost is to be borne by the applicant, but the agreement also provides that the cost of maintaining an interlocker at this location shall be borne one-half by the applicant and one-half by the Santa Fe.

Applicant's engineer estimated that the separation of the grades of the two railroads would cost approximately \$100,000 but here too, applicant stated no serious study had been made of the cost of a separated grade crossing.

With three shifts of towermen, the annual cost of maintenance and operation for such an interlocking plant is approximately \$4,000, which, if capitalized at 6 per cent, is equivalent to a capital expenditure of approximately \$67,000. Adding this to the estimated cost of interlocking, \$27,000, it appears that the cost to both railroads of installing a grade crossing protected by an interlocking plant may be capitalized at approximately \$94,000.

Admitting, according to applicant's testimony, that it would cost \$100,000 to separate the grades—and it appears that this amount is liberal—there is little to choose between these figures. There is some doubt in our minds that the grade separation would actually cost as much as the figure given above and we are convinced that under these circumstances the crossing should be constructed with separated grades.

It should also be borne in mind that if either a grade crossing with interlocker or separated grades should prove the more economical then, with equal safety conditions, we feel it our duty to order the most economical because of its influence on rates.

Since the Santa Fe is obligated to pay for one-half the cost of operation and maintenance of an interlocking plant which is above estimated equivalent to a capitalized cost of \$33,000, it should contribute to the cost of grade separation to this extent or as this figure may be hereinafter revised in a supplemental order in this proceeding.

The proposed crossing over the spur track of the Santa Fe near Allen avenue is also covered by an agreement between the interested parties. Because of the unimportance of this spur it appears that the only protection necessary at this time for that crossing is to require all engines, motors, cars or trains of the Santa Fe to come to stop before proceeding over the crossing.

The crossing over the Covina Branch of the Southern Pacific is also relatively unimportant, there being operated on this branch normally only one local freight train in each direction daily. Although no formal agreement has been executed between the applicant and Southern Pacific, the representative of Southern Pacific testified at the hear-



ing that his company offered no objections to the installation of this crossing upon the condition that the Pacific Electric trains stop before proceeding thereover. Inasmuch as this crossing is immediately adjacent to the westerly staff limit of the joint track now operated by both the Pacific Electric and the Southern Pacific between Lone Hill and La Verne, it is, as a practical matter, necessary for all Southern Pacific trains to stop near this point and there appears to be no particular objection in requiring this stop be made prior to proceeding over the crossing.

#### ORDER.

Pacific Electric Railway Company having made application for authority to construct its proposed railway from a point in the city of Glendora to Lone Hill and at grade across certain public highways in the city of Glendora and in the county of Los Angeles, State of California, and at grade across certain tracks of Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, a public hearing having been held and the Commission being apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction and operation of a railroad from a point at the present terminus of Pacific Electric Railway Company's track in the city of Glendora, thence running in a general easterly and southerly direction to a connection with its Los Angeles-San Bernardino line at Lone Hill in the county of Los Angeles; therefore,

*It is hereby ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to construct its track at grade across Cienega avenue, Covina boulevard, Juanita avenue, Gladstone avenue, Allen avenue, Compromise road and South Loraine avenue in the unincorporated portion of the county of Los Angeles, State of California, and at grade across Ellwood avenue, Glenwood avenue, South Pasadena avenue, East Lemon avenue, East Carroll avenue, East Ada avenue and Glendora avenue in the city of Glendora, county of Los Angeles, State of California, in the location as shown by Drawing No. M. W. 878-2, marked Exhibit "A" and filed with the application subject to the following conditions:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets and highways now graded, with the top of rails flush with the pavement or roadway surface and with grades of approach not exceeding three (3) per cent; shall be protected by suitable crossing signs and shall in every way



be made safe for the passage thereover of vehicles and other road traffic.

(3) Automatic flagmen shall be installed and maintained at the sole cost of the applicant for the protection of the following crossings: No. 1 Cienega avenue, and No. 2 Covina boulevard; said automatic flagmen shall be of a type and installed in accordance with plans or data approved by the Commission.

(4) No locomotive or motor shall be operated across crossing No. 2, Covina boulevard, with a car preceding said locomotive or motor, without first having been brought to a stop and a member of the train crew having preceded the car over the crossing for the purpose of warning approaching highway traffic.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(6) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that when and if the line of railroad for which certificate of public convenience and necessity is herein granted is constructed, applicant be and it is hereby directed to construct, at its sole cost and expense, its track across Minnehaha at separated grades according to plans and specifications which shall hereafter have been approved by this Commission.

*It is hereby further ordered*, that when and if the line of railroad for which certificate of public convenience and necessity is herein granted is constructed, applicant be and it is hereby directed to construct its track at separated grades across the main track of The Atchison, Topeka and Santa Fe Railway Company according to plans and specifications which shall hereafter have been approved by this Commission. The expense of constructing said separated grade crossing shall be borne by applicant, except The Atchison, Topeka and Santa Fe Railway Company shall contribute to the cost of said separated grade crossing the sum of thirty-three thousand (33,000) dollars, unless said amount is altered by subsequent order of this Commission.

*It is hereby further ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to construct its track at grade across a spur track of The Atchison, Topeka and Santa Fe Railway Company in the location shown on the map marked 76-13142 attached to Exhibit "G-2," said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing said crossing, together with the cost of its maintenance thereafter in good and first-class condition,

shall be borne in accordance with the agreement marked Exhibit "G-2" attached to the application.

(2) For the protection of said crossing all engines, motors, cars or trains of The Atchison, Topeka and Santa Fe Railway Company shall come to a stop and not proceed over the track of Pacific Electric Railway Company until it is ascertained that it is safe so to do.

(3) Applicant shall, within thirty (30) days thereafter, notify this commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to construct its track at grade across the track of Southern Pacific Company in the location shown on the map drawing M. W. 878-2, marked Exhibit "A," filed with the application, said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing said crossing, together with the cost of its maintenance thereafter in good and first-class condition, shall be borne by the applicant.

(2) All engines, motors, cars or trains on either railroad shall come to a stop before crossing the other track and shall not proceed thereover until it is ascertained that it is safe so to do.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of each and all of the above said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

*It is hereby further ordered*, that that portion of the application pertaining to the construction of a spur track at grade across Juanita avenue (crossing No. 20) be and it is hereby denied.

Dated at San Francisco, California, this ninth day of February, 1923.

## DECISION No. 11645.

CITY OF PASADENA, A MUNICIPAL CORPORATION,

*vs.*

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1729.

CITY OF PASADENA, A MUNICIPAL CORPORATION,

*vs.*

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1777.

CITY OF PASADENA, A MUNICIPAL CORPORATION,

*vs.*

UNION PACIFIC SYSTEM.

Case No. 1778.

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Decided February 9, 1923.

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GRADE CROSSINGS—SAFEGUARDS ORDERED.—Atchison, Topeka and Santa Fe Railway Company ordered to install and maintain an automatic flagman at Union street crossing, city of Pasadena, Los Angeles County.

Los Angeles and Salt Lake Railroad Company ordered not to operate trains over Raymond avenue crossing, city of Pasadena, at a speed in excess of ten (10) miles an hour.

Atchison, Topeka and Santa Fe Railway Company ordered to maintain jointly a human flagman at Glenarm street crossing, city of Pasadena.

*Jas. H. Howard*, City Attorney, for the City of Pasadena, Complainant.

*M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company, Defendant.

*F. E. Pettit, Jr.*, for Los Angeles and Salt Lake Railroad Company, Defendant.

BY THE COMMISSION.

## OPINION.

In Case No. 1729 the city of Pasadena alleges certain hazardous grade crossing conditions existing at the crossings of Holly street, Walnut street and Glenarm street over the tracks of The Atchison, Topeka and Santa Fe Railway in the city of Pasadena, and asks that adequate crossing gates be installed for the protection of these crossings at the expense of the defendant railroad company.

A public hearing in this matter was held in the city of Pasadena on June 7, 1922, before Examiner Williams, but the matter was not submitted at that time, as further hearing was desired in connection with certain other matters which it was thought might have some relation to this proceeding. Accordingly, two other complaints were subsequently filed by the city of Pasadena. In one of these, Case No. 1777, the city asked that The Atchison, Topeka and Santa Fe Railway Company be required to install automatic wigwag signals at the crossings of Oak

avenue, Craig avenue and Union street, respectively, over the tracks of the defendant railway company. In the other, Case No. 1778, the city asked that the Union Pacific (Los Angeles and Salt Lake Railroad Company) be required to install crossing gates at the crossing of Raymond avenue and Glenarm street over the tracks of said railroad, or be required to place in force such operating regulations as will obviate the necessity for such gates.

All of these matters were consolidated for hearing on September 13, 1922, in Los Angeles before Examiner Williams.

The main line of the Santa Fe extends for nearly five miles through the city of Pasadena, entering the city from the south and running in a northerly direction until the main business section of the city is passed; thence turning in an easterly direction, running through a highly developed residential district to the easterly limits of the city. This track is on a heavy grade, ascending northerly and easterly. There are nine regular passenger trains and approximately three freight trains operated over this track daily. There was evidence introduced to show that in the easterly part of the city trains were operated at speeds from nineteen miles per hour to thirty-seven miles per hour, and in the southerly part of the city from twenty-one miles per hour to thirty-one miles per hour. The main passenger station of the Santa Fe is located near the business district and inasmuch as all trains stop at this station, speeds in this vicinity are necessarily much restricted, although actual observations made in this vicinity indicated speeds of from fourteen miles per hour to twenty-five miles per hour.

The Pasadena branch of the Los Angeles and Salt Lake Railroad traverses the city of Pasadena for a distance of nearly four miles, entering the southern portion of the city adjacent to the above described track of the Santa Fe, thence running in a northerly and northwesterly direction past the business district through the northwesterly portion of the city. That portion of this track north of the business district, however, is virtually an industrial spur. There are four passenger and two mixed trains operated daily over this track across Raymond avenue and Glenarm street. The only place that the track of the Salt Lake is adjacent to the track of the Santa Fe is from these crossings to the southerly limits of the city. Although it appears that, as a matter of usual practice, the Salt Lake trains are operated at speeds of approximately fifteen miles per hour in Pasadena, the evidence indicates that trains have been observed to have actually approached the Glenarm street crossing at a considerably greater speed.

The traffic over each of the streets in each of the crossings concerned in these complaints is best indicated by reference to the following table:

*Tabulation Showing Average Traffic per Hour Over Certain Grade Crossings in the City of Pasadena.*

Time of count from 2 p.m. to 6 p.m. on dates shown.			
Description and location	Date and time	All vehicles	Pedestrians
Traffic crossing Salt Lake track:			
(1) Raymond avenue only.....	June 27, 1922	153	3
(2) Glenarm street only.....	June 27, 1922	158	11
(3) Both Raymond avenue and Glenarm street .....	June 27, 1922	34	4
Traffic crossing Santa Fe track:			
(1) Glenarm street .....	May 11, 1922	231	23
(2) Union street .....	June 27, 1922	310	150
(3) Holly street .....	May 8, 1922	312	115
(4) Walnut street .....	May 11, 1922	230	127
(5) Oak avenue .....	May 11, 1922	27	8
(6) Craig avenue .....	May 11, 1922	23	9

A brief discussion of the conditions surrounding each of the crossings in these proceedings will now be made, beginning at southerly portion of the city:

*Glenarm street* is an east and west street which passes over the main line of the Santa Fe and the Pasadena branch and a siding of the Salt Lake. On approaching this crossing from the east, the view of southbound trains on both Santa Fe and the Salt Lake is very seriously obstructed, while there is a clear view of approaching northbound trains for several hundred feet. Approaching this crossing from the west, there is a reasonably clear view of southbound Salt Lake trains, but the view of northbound Salt Lake trains and of Santa Fe trains in both directions is very seriously obstructed. Each railroad has installed an automatic flagman for the protection of the crossing of this street with their respective tracks which are at this point approximately 150 feet apart. The traffic count indicates that this is a heavily traveled street. The question to be determined at this crossing, in view of the seriously obstructed view, is whether the protection afforded by the automatic flagman is adequate for the heavy traffic of this street. On account of the distance between the railroads, the operation of and protection afforded by a single set of crossing gates for both crossings would be unsatisfactory. The crossings are, however, sufficiently near together to make it possible for one human flagman to give, under proper arrangement, a fairly satisfactory protection to both railroads. To accomplish this, proper indicators should be installed on each of the railroads for the purpose of indicating to the flagman the approach of a train on either track. To avoid the possibility of leaving one track unprotected while a train was approaching on the other track, it should be arranged for all trains on the track of lesser importance to approach the crossing prepared to stop and not proceed thereover until the human flagman

has given the signal to such trains to proceed. Under this arrangement the trains of the Salt Lake being less frequent, usually shorter and operated at slower speeds, should be required to pass over the crossing only on proper signal from the human flagman. The protection of this human flagman should be provided at these crossings at least during the hours of from 6 a.m. to 10 p.m. The wigwags should remain, of course.

*Raymond avenue* is a north and south street which crosses the branch line and a siding of the Salt Lake only. The southern termination of this street is at Glenarm street, and the railroad crosses Raymond avenue diagonally immediately north of its intersection with Glenarm. The traffic, therefore, going over this crossing approaches from three directions. That traffic moving southerly on Raymond has a clear view of southbound trains, but the view of northbound trains is seriously obstructed. That traffic coming from the west on Glenarm, turning north on Raymond, has a clear view of southbound trains, but the view of northbound trains is obstructed. That traffic coming from the east on Glenarm, turning into Raymond, has an opportunity of a reasonably clear view of trains from both directions. Under these circumstances it would seem that the protection of an automatic flagman at Raymond avenue as now provided would be reasonably adequate at the present time if provision were made for the limitation of speed of trains of the Salt Lake over this crossing not to exceed ten miles per hour.

*Union street*, next north of Colorado street, is the principal east and west street in the business section of Pasadena which crosses the main line of the Santa Fe. This crossing is at present protected by crossing gates operated between the hours of 6 a.m. and 10 p.m. The view is completely shut off on three corners of this intersection, buildings being constructed to within about 15 feet of the railroad. The traffic over this crossing is quite heavy, and such portion of it as moves between the hours of 10 p.m. and 6 a.m. is without protection of any kind. This street appears to be of sufficient importance to justify some form of protection for fully twenty-four hours of the day, and the complainant's request that an automatic flagman be installed to supplement the present crossing gates seems just and reasonable. The Santa Fe may, however, prefer to add another shift of gatemen from 10 p.m. to 6 a.m. This, of course, would obviate the installation of a wigwag.

*Holly street* is an east and west street across the main line and a spur track of the Santa Fe one block northerly of the Union street crossing. The view at Holly street is completely obstructed on two corners of the intersection and partially obstructed on the other two corners. This crossing is at present protected by an automatic flagman. Street traffic is moderately heavy. This street has been made by city ordinance the route of auto bus lines operating to the easterly portion of the city in

order to relieve part of the traffic on Union and Colorado streets. Holly street is 80 feet wide, but a portion of the benefit of this width is lost, due to the fact that automobiles are ordinarily thickly parked along each side of the street. Some relief would be afforded and confusion would be avoided at this crossing if no parking were allowed on the southerly side of Holly street for a distance of 100 feet westerly from the railroad. With such a modification in parking regulations, we are of the opinion that the existing automatic flagman will provide a reasonably adequate protection for the present.

*Walnut street* is an east and west street one block northerly from the Holly street crossing. This is essentially a residential street, but the traffic is only moderate in amount. The view is rather seriously obstructed in all directions. The crossing is at present protected by an automatic flagman so located as to be prominently in view, and we are convinced that this device affords reasonable protection to a prudent driver and that additional protection at this time is not justified.

*Oak avenue.* This is a north and south residential street in the easterly portion of the city. The view is moderately clear on two corners of the intersection and rather seriously obstructed on the other two corners. The intersecting streets are so spaced that vehicular speeds are relatively high and, being in the outskirts of the city, train speeds are also high. The amount of traffic on this street is so little, however, we are convinced that the time for requiring special protection at this crossing has not yet arrived.

*Craig avenue.* This is the next north and south street east of Oak avenue. This street has similar characteristics to those of Oak, and the hazard at this intersection appears to be about equal to that at Oak street crossing and our conclusions are necessarily the same.

These cases call to mind the grade crossing situation on the Santa Fe between and in Los Angeles, Pasadena and South Pasadena, as was involved in Case No. 970 *et seq.* At that time our engineering department recommended the commencement of total grade crossing elimination on these railroads in this district. Since that time there have been complaints, both formal and informal, asking more protection at about thirty crossings in this district and we feel that at this time, considering also the large increase in population and motor vehicles, it is appropriate to remark that, in our opinion, no permanent solution of the difficulties will be found, except in complete grade crossing separation.

#### ORDER.

A public hearing having been held on the above entitled proceedings, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered,* that The Atchison, Topeka and Santa Fe Railway Company be and it is hereby ordered to install and maintain at its



sole expense an automatic flagman for the protection of the crossing of its track with Union street in the city of Pasadena, in addition to the protection of crossing gates heretofore provided, said flagman to be of a type and installed in accordance with plans which have been approved by the Commission.

The installation of said automatic flagman shall be made within ninety (90) days from the date of this order, and the Commission shall be notified, in writing, within thirty (30) days thereafter of the completion of this installation of said signal.

*It is hereby further ordered*, that Los Angeles and Salt Lake Railroad Company shall not operate any train at a speed in excess of ten (10) miles per hour over the crossing of its track with Raymond avenue in the city of Pasadena.

*It is hereby further ordered*, that The Atchison, Topeka and Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company be and they are hereby ordered to jointly maintain a human flagman for the protection of crossing of their tracks with Glenarm street in the city of Pasadena between the hours of 6 a.m. and 10 p.m. daily. Trains of Los Angeles and Salt Lake Railroad Company shall not, between said hours, proceed over said Glenarm street unless and until said human flagman shall have given signal to such trains to proceed. The cost of maintaining said human flagman shall be borne one-third by Los Angeles and Salt Lake Railroad Company and two-thirds by The Atchison, Topeka and Santa Fe Railway Company.

Dated at San Francisco, California, this ninth day of February, 1923.

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DECISION No. 11646.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR PERMISSION TO CONSTRUCT A SPUR TRACK AT GRADE ACROSS TWENTY-SIXTH STREET, IN THE CITY OF VERNON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

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Application No. 8615.

Decided February 10, 1923.

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BY THE COMMISSION.

ORDER.

The Atchison, Topeka and Santa Fe Railway Company, a corporation, having on January 29, 1923, filed with the Commission an application for permission to construct a spur track at grade across Twenty-sixth street, in the city of Vernon, County of Los Angeles, State of California, as hereinafter indicated, and it appearing to the



Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit (No. 245) has been granted by the board of trustees of said city of Vernon for the construction of said crossing at grade, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said Twenty-sixth street, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct a spur track at grade across Twenty-sixth street, in the city of Vernon, county of Los Angeles, State of California, described as follows:

Beginning at a point in the northern line of East Twenty-sixth street, 161.43 feet easterly from an angle point in said northern line of East Twenty-sixth street; thence southwesterly 53.8 feet on a curve concave to the southeast and having a radius of 398.94 feet, to a point in the southern line of said East Twenty-sixth street 129.20 feet easterly of an angle point in the southern line of said street. A direct line connecting said angle points intersects the center line of said East Twenty-sixth street 2525.25 feet easterly along said center line from Soto street.

All of the above as shown by the map (Div. Engrs. Drawing No. L 5-5013) attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be constructed of a width and type of construction to conform to that portion of said street now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) No train movements shall be made over said crossing unless traffic on the highway is protected by a member of the train crew acting as flagman.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this tenth day of February, 1923.

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DECISION No. 11650.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MERCED, STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC ROAD AT GRADE ACROSS TRACKS OF SOUTHERN PACIFIC COMPANY AT JOHNSON STREET IN THE VICINITY OF DELHI IN SAID COUNTY.

Application No. 8548.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MERCED, STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC ROAD AT GRADE ACROSS TRACKS OF SOUTHERN PACIFIC COMPANY AT EL CAPITAN WAY IN THE VICINITY OF DELHI IN SAID COUNTY.

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Application No. 8549.

Decided February 10, 1923.

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BY THE COMMISSION.

ORDER.

The board of supervisors of the county of Merced, State of California, having on January 3, 1923, filed with the Commission the above entitled applications for permission to construct Johnson street and El Capitan way, respectively, at grade across the tracks of Southern Pacific Company, hereinafter called the railroad, in said county, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the railroad has signified by letter that it has no objection to the construction of said crossings at grade, and it further appearing that the construction of said crossings will be a convenience to the railroad in enabling it to rearrange its station facilities at Delhi providing the present location of the crossing at grade of El Capitan way is abandoned and that because of this fact the railroad is willing to bear the expense of constructing the crossings between the rails and for two feet outside thereof, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said tracks, and that the application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered,* that permission be and it is hereby granted the board of supervisors of the county of Merced, State of California, to construct Johnson street at grade across the tracks of the railroad in the location described as follows:

Commencing at a point on the westerly right of way of the Southern Pacific Railroad Company's right of way said point being at engineering station 2053 plus 05.7, being at a point that is S. 47° 39' E., 140 feet from the most easterly corner of

lot 33, block 1, of the townsite of Delhi, as shown on the Delhi State Land Settlement Board map; thence S.  $42^{\circ} 21'$  E., along the westerly right of way line of the Southern Pacific Company's railroad 80 feet; thence N.  $47^{\circ} 39'$  E., 100 feet to the easterly line of the right of way; thence along said right of way N.  $42^{\circ} 21'$  W., 80 feet; thence S.  $47^{\circ} 39'$  W., 100 feet to point of beginning.

All of the above as shown by the map No. 596 attached to Application No. 8548; said crossing to be constructed subject to the following conditions, viz:

(1) The expense of constructing and maintaining that portion of the crossing up to lines two (2) feet outside of the outside rails shall be borne by the applicant. The expense of constructing and maintaining that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by the railroad.

(2) The crossing shall be constructed of a width of not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad, and with grades of approach not greater than two (2) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The large signboard situated southeasterly of said crossing adjacent to the railroad on its southwesterly side shall be removed.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that permission be and it is hereby granted the board of supervisors of the county of Merced, State of California, to construct El Capitan way at grade, across the tracks of the railroad, in the location described as follows:

Commencing at a point on the westerly right of way line of the Southern Pacific Company's right of way, said point being S.  $42^{\circ} 21'$  E., 614 feet from the most northerly corner of Delhi townsite, as the same is of official record in the office of the county recorder, of the county of Merced, State of California; thence N.  $47^{\circ} 39'$  E. 100 feet to the easterly right of way line of the Southern Pacific Railroad Company's railroad; thence along said right of way S.  $42^{\circ} 21'$  E., a distance of 80 feet; thence S.  $47^{\circ} 39'$  W., 100 feet, to the westerly right of way line of the Southern Pacific Railroad Company's right of way; thence N.  $42^{\circ} 21'$  W., 80 feet to the point of beginning; and

Commencing at a point in the northeasterly boundary line of Wilson street, said point being N.  $42^{\circ} 21'$  W., a distance of 338.50 feet from the intersection of said northeasterly boundary line with the northwesterly boundary line of El Capitan way in the town of Delhi as the same is delineated and so designated on the official map of said town, filed February 18, 1922, in book S, pages 1 to 6, of the official plats of Merced County, California; said point of commencing also being 150 feet northeasterly, measured at right angles from the center line of the main track of the Southern Pacific Railroad Company at engineers station 2042 plus 52.2; thence N.  $42^{\circ} 21'$  W. along said northeasterly line of Wilson street, 94.22 feet to a point, thence northeasterly along the arc of curve concave to the right, having a radius of 231.78 feet (whose tangent at last mentioned point bears S.  $67^{\circ} 34'$  E.), a distance of 69.58 feet to the point of tangent; thence S.  $89^{\circ} 56'$  E., a distance of 142.04 feet to a point in

the southwesterly line of Commercial street; thence S. 42° 21' E., along said southwesterly line of Commercial street a distance of 108.37 feet to a point; thence N. 89° 56' W., a distance of 215.12 feet to a point; thence southwesterly along the arc of curve concave to the left, having a radius of 151.78 feet (whose tangent at last mentioned point is the last described course) a distance of 4.86 feet to the point of commencing.

All of the above as shown by the map No. 594 attached to Application No. 8549; said crossings to be constructed subject to the following conditions; viz:

(1) The expense of constructing and maintaining those portions of each crossing up to lines two (2) feet outside of the outside rails shall be borne by the applicant. The expense of constructing and maintaining those portions of each crossing between lines two (2) feet outside of the outside rails shall be borne by the railroad.

(2) The crossings shall be constructed of a width not less than thirty (30) feet and with grades of approach not greater than two (2) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The existing crossing of El Capitan way located at engineer's station 2046 plus 30.7 shall be legally abandoned and effectively closed to public use and travel.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective ten (10) days after the making thereof.

Dated at San Francisco, California, this tenth day of February, 1923.

## DECISION No. 11652.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES  
PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING  
IT TO ISSUE AND TO SELL CERTAIN OF ITS GENERAL REFUND-  
ING SERIES "B" SIX PER CENT BONDS.

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Application No. 8272.

Decided February 10, 1923.

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

The Railroad Commission by Decision No. 11038, dated September 29, 1922, authorized Midland Counties Public Service Corporation to issue and sell at not less than 95.65 per cent of face value plus accrued interest \$396,000 of its general refunding Series B 6 per cent bonds. The order of the Commission, as amended from time to time, authorized the company to use the proceeds from the sale of \$192,167.31 of the bonds to finance in part construction expenditures made prior to November 30, 1922, but provides that the remainder of the proceeds be placed in a special deposit and expended only as authorized by the Commission in a supplemental order or orders.

In a supplemental petition filed in the above entitled matter on February 1, 1923, the company reports that during the month of December it has made expenditures or incurred indebtedness in the amount of \$13,950 for the purpose of providing necessary additions, extensions, improvements and betterments to its system.

It asks that it be permitted to use the proceeds from the sale of \$8,093.55 of the bonds authorized by Decision No. 11038 to finance in part these reported expenditures.

The Commission has considered applicant's request and believes that it should be granted, as provided herein; therefore,

*It is hereby ordered*, that Midland Counties Public Service Corporation be and it is hereby authorized to use on or after the date herein the proceeds from the sale of \$8,093.55 of the bonds authorized by Decision No. 11038, dated September 29, 1922, as amended, to finance in part construction expenditures made prior to December 31, 1922, and referred to herein.

*It is hereby further ordered*, that the order in Decision No. 11038, dated September 29, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this tenth day of February, 1923.

## DECISION No. 11654.

IN THE MATTER OF THE APPLICATION OF EDWARD SERRETTO AND LOUIS A. MATTEI FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK LINE AS A TRANSPORTATION COMPANY FOR THE CARRYING OF FREIGHT AND EXPRESS BETWEEN SAN FRANCISCO AND PESCADERO, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8252.

Decided February 13, 1923.

*Harry A. Encell*, by *James A. Miller*, for the Applicants.  
*Fred C. Peterson*, for the Red Star Stage Line, Protestant.

BY THE COMMISSION.

## OPINION.

Edward Serretto and Louis A. Mattei, copartners, have filed an application with the Railroad Commission in which they petition for a certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of freight and express between San Francisco and Pescadero and intermediate points, California, via the so-called "Coast Route."

Public hearings were held before Examiner Satterwhite at San Francisco. The matter was duly submitted and is now ready for decision.

Applicants propose to operate one round-trip each way per day for freight and one round-trip per day for express matter. The freight schedule is to be operated daily except Sundays south bound and Saturdays north bound. The express schedules are to be operated daily including Saturdays and Sundays. Applicants have as equipment to be used in such service about seven trucks of two, three and three and one-half tons capacity together with several trailers and propose to charge rates specifically set out in Exhibit "A" attached to the application herein.

There is at the present time a freight service between the points herein proposed to be served rendered by Neal Forrest doing business under the fictitious name of Red Star Stage Line. There are several other truck companies operating between San Francisco and San Pedro Valley and Half Moon Bay district, although the Red Star Stage Line was the only existing operator who protested the granting of the present application.

Applicants produced about thirty-five witnesses who testified to the public necessity of this proposed service. A number of these witnesses gave testimony of relatively little value, many of them expressing the view, however, that the establishment of this additional service would benefit the communities for the reason that the operation of two competing truck lines would bring about a more satisfactory transportation service.



There were several witnesses called by applicants, being large growers in the territory proposed to be served, whose testimony must be given considerable weight. One of such witnesses, F. A. Lathrop, general manager of the Peninsular Farms Company, a concern cultivating some 13,600 acres of farming land, testified as to the difficulties his company experienced in securing sufficient equipment to transport their farm produce. This witness testified that on several occasions he had requested the agent of the Red Star Stage Line to furnish certain trucks to move farm produce for his company and, although, the agent promised such trucks, they were unable to meet his requirements. It further appears that should the present application be denied, it would be necessary for this company to purchase and operate their own trucks to properly handle their large crops.

Another witness for applicant, a large grain and bean dealer in the city of San Francisco, also testified to the difficulties experienced in securing sufficient transportation facilities to handle perishable crops purchased in the Pescadero and Half Moon Bay district for movement to San Francisco for rail or water shipment, and also complained of the failure of the Red Star Stage Line to promptly handle shipments offered to them.

This territory was heretofore served by one James R. Gray, whose certificate was revoked for violation of the law, and the rules and regulations of the Commission under Decision No. 10,909 in Case No. 1728. The present applicants were operating under the certificate heretofore held by Gray under a power of attorney and submitted in evidence certain exhibits showing amount of tonnage handled during such operation. One of these exhibits, namely Exhibit "D" attached to their application, shows a total of 818 tons and 1194 pounds handled from Pescadero and intermediate points to San Francisco during the months of April to August, inclusive, 1922, and a total of 475 tons and 1644 pounds from San Francisco to Pescadero and intermediate points for the same period. Protestant, Red Star Stage Line's Exhibit "9" contains a statement of tonnage handled both north and south bound for the period January to September, 1922, inclusive, also a comparative statement of tonnage handled during the same period as that covered by applicants' Exhibit "D". From this exhibit it would appear that applicants herein while operating as agents for James R. Gray handled during the period April to August, inclusive, 1922, a total of 1294 tons, 838 pounds and during the same period the Red Star Stage Line handled a total of 706 tons, 1620 pounds or a difference of practically 588 tons in favor of the applicants herein.

The last exhibit is of considerable value principally in view of the fact that witnesses for protestant Red Star Stage Line, especially their

agents located at Pescadero and Half Moon Bay, testified as to numerous occasions upon which trucks of protestants had run partially loaded. Considering the amount of tonnage moved between San Francisco, Pescadero and intermediate points, particularly during the period since the revocation of the Gray license and also covering the period of time that applicants herein were only permitted to haul perishable farm produce north bound only, there should be no reason why the trucks of applicants should be obliged to operate a majority of time only partially loaded.

Applicants also submitted an exhibit showing the amount of tonnage handled from two shippers each from nine points, Pescadero and intermediates to San Francisco and from one shipper from one point intermediate to San Francisco, all tonnage north bound during the period from April to September, inclusive, which exhibit showed the total of 709 tons, and 1270 pounds. This exhibit is indicative of the amount of tonnage necessary to be moved out of this territory to shipping points.

The Red Star Stage Line submitted its Exhibit No. "2" showing the equipment which they operated. This equipment included two 3½-ton trucks, one 2½-ton truck and one 1½-ton and one 2½-ton trailers. They also submitted evidence to the effect that they had entered into a lease arrangement whereby they could secure whenever necessary five additional trucks. Protestant holds also another lease agreement with one W. H. Coakley under which they claim to have available at any time two additional trucks. This lease agreement was filed at the hearing November 13, 1922, at which hearing protestant also showed that since the subsequent hearings in October, they had acquired one additional 2½-ton truck and one 2-ton trailer.

In Case No. 299, Application No. 35, *Pacific Gas and Electric Company vs. Great Western Power Company*, re Great Western Power Company, 203 C. R. C. 1, being the first important decision issued by this Commission upon an application for a certificate of public convenience and necessity in competitive territory, the Railroad Commission laid down a principle which has been followed ever since. This principle was to the effect that the utility desiring to be protected by public authority from competition should not wait until such competition knocks at its door before rendering an adequate and sufficient service, but should at all times to the best of its ability endeavor to adequately care for all demands made upon it for service. The evidence introduced at the last hearing in this proceeding, unquestionably shows that protestant herein has endeavored to add needed equipment to adequately care for traffic conditions. This equipment was only added after several days' hearing upon present



petition and it is even questionable at this time whether such added equipment will adequately care for traffic requirements in this territory particularly during the season of the year when crop movements are heaviest.

This territory was heretofore served by the Ocean Shore Railroad Company and considerable of the development along the route covered by the present application was influenced largely through the operation of this railroad. In 1920 this railroad, under authority of this Commission, discontinued operation and has since removed its tracks and the only means of transportation by common carrier of passengers or freight is by motor vehicle. The territory proposed to be served is principally a farming section and the tonnage movement more or less seasonal and of a perishable nature requiring at times a considerable number of trucks to move crops from farms to market centers. Due to this fact there has been continuously more or less unlawful operation in this territory and this Commission is of the opinion, after a very careful consideration of all the evidence, it would be in the interest of dependable and adequate transportation facilities to the general public along this route to authorize the proposed additional freight and express service proposed by said applicants.

We think it unnecessary at this time to review other exhibits filed by either applicants or protestant or to review in more detail the considerable mass of testimony submitted during the hearings as it unquestionably appears that the requirements of the shipping public in the territory proposed to be served, require the establishment of the service as proposed by applicants herein and an order will be entered accordingly.

#### ORDER.

Public hearings having been held upon the above entitled application, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Edward Serretto and Louis A. Mattei of an automobile truck line as a common carrier of freight and express between San Francisco and Pescadero and intermediate points, California, via the so-called "Coast Route"; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. Applicants herein, Serretto and Mattei, shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof; shall file, in duplicate,

tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with rates and time schedules as set forth in Exhibits "A" and "B" attached to the application herein; and shall commence service as herein authorized within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges hereby authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants, Serretto and Mattei, unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11655.

IN THE MATTER OF THE APPLICATION OF PACIFIC MOTOR EXPRESS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR TRUCK SERVICE FOR THE TRANSPORTATION OF EXPRESS AND FREIGHT BETWEEN LOS ANGELES AND TEMECULA, CALIFORNIA.

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Application No. 8425.

Decided February 13, 1923.

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*C. W. Guerin*, for Applicant.

*K. F. Beyerle*, for Murrieta Valley Motor Freight Line, Protestant.

*H. N. Blair*, for Hodge Transportation System and *G. E. Galbreath*.

*C. E. Lucey*, for The Atchison, Topeka and Santa Fe Railway Company and American Railway Express Company.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover at Elsinore and Los Angeles upon the above entitled application for authority to operate a motor truck service between Los Angeles and Pauba Ranch, serving Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrieta, Murrieta Hot Springs and Temecula as intermediate points, and also ranches within five miles of the route where road conditions permit.

The above territory is now served by Murrieta Valley Motor Freight Line as to all said points except Pauba Ranch; by the Santa Fe Railway Company and the American Railway Express Company operating over its rails, as to all said points except Glen Ivy, Murrieta Hot Springs and Pauba Ranch; but none of the present carriers referred to serve ranches off the regular route, except that it appears from the testimony that

the Murrieta line has on occasions served ranches as a matter of accommodation.

The principal ground set forth in the application as justification for granting the certificate prayed for, is that the Murrieta line has made numerous overcharges on shipments; that it delays deliveries; that there is "trouble in collecting for overcharges," and that many shippers who need the service have quit patronizing Murrieta line because of dissatisfaction.

It satisfactorily appears from the testimony that present carriers have abundant equipment for handling far more traffic in this territory than moves at present. It appears that the Murrieta line handles an average of about 150 pounds daily north and west to Los Angeles, and about ten times that amount to the east and south from Los Angeles; and that the Santa Fe handles daily for Elsinore, 800 to 1200 pounds; Temecula, about 1000 pounds; and for Murrieta, about 400 to 700 pounds.

The undisputed testimony shows twelve instances of unsatisfactory service on the part of the Murrieta line; including refusal, as well as failure to pick up shipments; double collection of freight bills; collecting unauthorized pickup charges; making overcharges through erroneous application of rates and classification; damages to shipments and delay in transporting goods.

In addition to the above, where the testimony was undisputed and the instances complained of unexplained, witnesses for applicant testified to unauthorized pickup charge, overcharge based on erroneous weight, trunk delivered at Murrieta Hot Springs instead of Elsinore, in all of which it appears that the Murrieta line was not at fault.

It appears, however, that the latter charged double first-class on a plow without tariff authority, as its filed tariff makes no distinction between plows set up and those knocked down; and that drivers refused to accept empty ice cream containers at Alberhill. It further appears that in two instances the drivers passed through Elsinore without stopping, carrying parts for which mechanics were waiting. In one instance the truck was overtaken by consignee and returned and made delivery. In the other instance the stage driver was located at Murrieta Hot Springs and returned to Elsinore, arriving at midnight with the part.

Besides the specific instances above referred to, there were a number of complaints that freight bills do not show weight and rate, but only the total amount of the charge; that goods destined for Temecula and Elsinore are left at a variety of places after business houses are closed, without notice to consignees and that there is a long delay in finding them; that drivers on the run are changed frequently and new men are not familiar with the territory or the places where goods are to be left.

or orders called for; that shippers can not rely upon having their goods picked up and that complaints made to drivers do not receive attention.

In reference to the latter matters it appears that the Murrieta line customarily uses the weights furnished by shippers, and where weights are not furnished that it weighs the shipments; that it has not been customary to show weight and rate for the reason that it is said the shipping bills usually show weights. It would appear advisable, however, at least for the purpose of avoiding misunderstandings, that the carrier's freight bill should show weights and rates. It further appears that when some unavoidable breakdown or other delay occurs, and drivers do not arrive before close of business, it is customary to leave goods at some place where the driver considers they will be found by consignee. In an instance of this kind goods should be left with the carrier's agency or depot, or at some alternative place that shippers are advised of. Shippers should be able to rely upon an authorized carrier to pick up their goods and to give proper attention to complaints made to drivers or other agents of the carrier with whom the shipping public comes in contact. If carriers desire that complaints concerning service should be made to the main office, or in writing, or in any other specific manner, it should be relatively easy to have the drivers or other agents so advise shippers when such questions arise.

By Decision No. 10818 of August 3, 1922, upon Application No. 7985, the Commission authorized applicant Payne and one William M. Harris to transport milk, dairy products and supplies between Los Angeles and the territory described in the above application but denied them the right to transport other or general freight because need therefor was not shown. This was in spite of the fact that a number of complaints concerning service by the Murrieta line had arisen, mostly on account of overcharges, but that those reaching Mr. Beyerle in person have been satisfactorily adjusted. Other instances were satisfactorily explained at the time. The Commission said in the above decision:

Some of the adjusted claims arose through silence of the tariffs on points questioned; others, on weight, resulting from using weights of consignors. The first can be prevented by amending the tariffs, which we recommend. Probably the management, with its experience in this territory, can remove any question regarding weights. This should be done if possible.

It appears herein that certain amendments to classification are in contemplation by the Murrieta line, probably to be made effective some time in March.

We are convinced, however, by the variety of complaints, the number of points at which they arise, and the importance of the shipping interests complaining, that the business of the Murrieta line is not receiving adequate supervision or attention.

Irregularities in application of tariff rates and classification of the class to which attention was called by decision of August 3, 1922, not

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having been corrected, leads to the belief that the management is not inclined to give proper supervision and attention to the service, which, as it testifies, is now being operated at a loss.

The applicant herein has heretofore been authorized by the Commission, by Decision No. 11147, of October 20, 1922, upon Application No. 8306, to transport milk, dairy products and supplies between Los Angeles and the territory described in the above application, a service which the testimony herein shows is being satisfactorily rendered.

As the applicant herein is now satisfactorily operating a dairy service in the same territory and appears to be in a position to satisfactorily operate a service for the transportation of general freight in addition, and give such operation the proper detailed attention, we have concluded to authorize the service in the interest of the shipping public. The testimony offered does not justify authorizing service within a zone ten miles wide, being five miles on each side of the route, except as to points specified in the order.

#### ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby certifies that public convenience and necessity require the operation by Harry S. Payne, operating under the fictitious name of Pacific Motor Express, of an automotive truck service for the transportation of freight between Los Angeles and Pauba Ranch, serving Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrieta, Murrieta Hot Springs and Temecula as intermediate points, and also to serve in connection with said route the headquarters of the Vail Ranch near Temecula, and the plant of the Pacific Clay Products Company near Alberhill; but it does not require service by said Payne at other points off the highway connecting the above named points.

The authority herein contained is granted upon the following conditions:

1. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned, unless the written consent of the Railroad Commission thereto has first been procured.
2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.
3. *It is hereby ordered*, that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall

show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

4. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11656.

IN THE MATTER OF APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON WHARF No. 2 AT REDONDO BEACH, CALIFORNIA.

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Application No. 4527.

Decided February 13, 1923.

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*Frank Karr*, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing it to abandon and remove its Wharf No. 2 at Redondo Beach, California, alleging that the physical condition of said wharf is such that unless substantial repairs are made that piles and timbers therefrom will become afloat on the water of the Pacific Ocean and become a hazard and menace to navigation and to other structures in its vicinity; that by reason of the settlement of sand near and around the piers of said wharf that vessels of any considerable draft are no longer able to dock thereat; that the business now offering at Redondo can be satisfactorily handled at Wharf No. 3; and that the expense of maintaining and operating said Wharf No. 2 is not justified by the business offering, all of which can be handled by the present facilities afforded by Wharf No. 3.

A public hearing on this application was conducted by Examiner Handford at Redondo Beach, at which time the matter was duly submitted and is now ready for decision.

It appears from the record herein that the wharf, herein proposed to be abandoned, was constructed more than twenty years ago and was acquired by applicant at the time of consolidation with the Los Angeles and Redondo Railroad Company in 1911. The original franchise granted by the board of supervisors of Los Angeles County having expired, a new franchise was secured from the board of trustees of the city of Redondo Beach.

This wharf has been used principally for the receipt of lumber shipments, destined for delivery over the rails of the applicant and the Atchison, Topeka and Santa Fe Railway, which latter company had trackage rights over the wharf. The receipt of material by the Atchison, Topeka and Santa Fe Railway has largely decreased in recent years due to diversion of water shipments to San Diego and material destined to the Pacific Electric Railway for its own use or for shipment over its rails has been largely diverted to the Los Angeles Harbor at San Pedro, East San Pedro or Wilmington.

The record shows the following number of vessels docking at Wharf No. 2 during the years noted:

1913	147 vessels
1914	47 vessels
1915	23 vessels
1916	55 vessels
1917	5 vessels
January 1 to April 30, 1918, inclusive	3 small vessels

The freight revenue accruing to the applicant for carriage of shipments arriving at and handled over Wharf No. 2 is as follows:

Year	Revenue
1918	\$337 62
1917	349 32
1916	11,633 00
1915	1,869 16
1914	4,399 90

No vessels have used the facilities afforded by the wharf proposed to be abandoned since the month of April, 1918, and for some time previous to such date only small vessels of light draft could be berthed at this wharf due to the deposits of sand.

The average annual expense of maintaining Wharf No. 2 has averaged over a twenty year period approximately \$5,000.

It appears that all necessary facilities for the receipt of such material as may be shipped to Redondo by water carriage, are now available on applicant's Wharf No. 3 which is in operative condition and that the Atchison, Topeka and Santa Fe Railway as well as the applicant has track connections with Wharf No. 3, a trackage agreement between the Atchison, Topeka and Santa Fe Railway Company and the applicant permitting joint access to Wharf No. 3 having been duly approved by this Commission's Decision No. 7457 on Application No. 5589, decided April 21, 1920.

We have given careful consideration to all the evidence in this proceeding and as it clearly appears that the service and facilities offered by Wharf No. 2 are no longer necessary for the use of the applicant or the shippers and receivers of freight served thereby; and that proper facilities are available on Wharf No. 3 now maintained and operated by the applicant, the application herein should be granted and it will be so ordered.



## ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission now being fully advised;

*It is hereby ordered*, that this application be and the same hereby is granted.

Dated at San Francisco, California, this thirteenth day of February, 1923.

## DECISION No. 11657.

IN THE MATTER OF THE APPLICATION OF THE SAN FRANCISCO-SAN JOSE FRUIT AND PRODUCE TRANSFER COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH, OPERATE AND CONTINUE AN AUTOMOBILE TRUCK LINE AS A COMMON CARRIER OF FRUIT, PRODUCE AND VEGETABLE COMMODITIES BETWEEN REDWOOD CITY, PALO ALTO, MAYFIELD, MOUNTAIN VIEW, LOS ALTOS, LAWRENCE STATION, ALVISO, CUPERTINO AND INTERMEDIATE POINTS TO OAKLAND WHOLESALE FRUIT AND VEGETABLE MARKETS.

Application No. 8435.

Decided February 13, 1923.

*Spencer G. Prime*, for Applicant.

*H. A. Loveland*, for Morris Draying Company, T. J. Silva, Pat Silvestri and Cunha Brothers, Protestants.

*A. A. Rogers*, for A. J. Lawrence, F. L. Misener and J. F. Garcia, Protestants.

*Charles A. Thompson*, by *R. A. Morgan*, for Kiso Yasunaga, Protestant.

BY THE COMMISSION.

## OPINION.

William D. Schivo, August Schivo and John F. Corriea, copartners, doing business under the fictitious name and style of San Francisco-San Jose Fruit and Produce Transfer Company, have filed an application with the Railroad Commission, in which they petition for a certificate declaring that public convenience and necessity require the operation of an automobile truck line as a common carrier of fruits, vegetables and produce between Redwood City and the commission houses and canneries in the city of Oakland, serving as intermediate points Palo Alto, Mayfield, Mountain View, Los Altos, Cupertino, Lawrence and Alviso.

A public hearing upon the above entitled application was heard before Examiner Geary on January 23, 1923, at San Francisco, at which time the matter was submitted and it is now ready for decision.

Some eight existing carriers appeared at the hearing, through counsel, and in part protested the granting of the application as herein applied for. At the hearing, applicants amended their petition to cover a common carrier of fruits, vegetables and produce from Redwood City to Lawrence and vicinity, north along the Lawrence road to



Alviso road, but not serving the communities of Santa Clara, San Jose, Alviso, Milpitas or any points intermediate to Oakland.

They propose to transport only the commodities hereinabove mentioned from truck gardens and farms to commission houses and canneries located in Oakland and to haul no commodities on the return trip other than empty containers. Applicants called, in support of their petition, some six witnesses. One of the witnesses, an active copartner, testified to the repeated demands received for the transportation of farm and garden produce to the Oakland commission houses.

The applicant at the present time operates an automobile truck line as a common carrier of the same class of produce from the various Peninsula points to San Francisco and the witnesses for applicant testified that, due to the fluctuation in market prices or the over-stocking of the San Francisco markets, it was frequently advisable to ship produce to Oakland commission houses, where a far better price could be obtained, and due to the fact that a considerable portion of the territory proposed to be served is without direct truck communication with Oakland commission houses, producers are forced to ship to the San Francisco markets, irrespective of the conditions of the market, the demand for the products, or the prices which might exist at the particular time.

Four witnesses from Palo Alto district were called, and corroborated the testimony of the previous witness. One additional witness, operating a truck garden one mile west of Mountain View, also testified that on frequent occasions he desired to ship produce to the Oakland commission houses, but did not do so because of the fact he was under the impression that no automobile freight truck common carrier operates in his territory.

Evidence was submitted by several of the protestants, represented by counsel. One of these witnesses, F. L. Misener, testified in effect that under certificate heretofore obtained from the Commission, he is transporting, daily, the products from Santa Clara Valley territory as far west as Mountain View and vicinity; that he has sufficient equipment and is adequately caring for such business destined to Oakland markets. An examination of the records of the Commission shows that said Misener is authorized to transport produce from the Mountain View territory and vicinity and that, if the witness of applicant heretofore referred to had inquired, he could and would have been served by this protestant.

B. F. Morris, another protestant, submitted testimony to the effect that he holds a franchise authorizing the transportation of produce to canneries located in the vicinity of Oakland, the territory comprising a district as far west as Mayfield, but in so far as his protest is concerned, it only affects the transportation of produce to canneries for

canning purposes and at that, only with reference to territory situated in Santa Clara County east of the town of Mayfield. None of the other protestants appearing at the hearing submitted any testimony whatsoever with reference to their respective operations.

The Commission is of the opinion, from the record in this proceeding, that it is justified in granting, in part, applicant's petition for a certificate of public convenience and necessity authorizing said applicant to engage in the transportation of fruits, vegetables and produce from the territory as more specifically described in the order herein, to commission houses and canneries located in the city of Oakland.

#### ORDER.

A public hearing having been held in the above entitled application, evidence submitted, and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by William D. Schivo, August Schivo and John F. Corri a, copartners, doing business under the firm name and style of San Francisco-San Jose Fruit and Produce Transfer Company, of an automobile truck line as a common carrier of fruits, vegetables and produce only from Redwood City to commission houses and canneries located in and adjacent to the city of Oakland, California, serving as intermediate points, Menlo Park, Palo Alto, Mayfield, Los Altos and shipping points located within a radius of three miles on either side of the highway to the points hereinabove mentioned, it being distinctly understood that the applicant shall not haul any fruits, vegetables or produce from Mayfield or points east thereof to Oakland, nor any fruits, vegetables or produce whatsoever from Mountain View, Sunnyvale, Santa Clara, San Jose, Alviso, Milpitas or any points intermediate thereto and Oakland, California; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. Applicant herein shall file within a period of not to exceed ten (10) days from date hereof, its written acceptance of the certificate herein granted; shall file within a period not to exceed twenty (20) days from date hereof tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those filed as exhibits and attached to the application herein, and shall commence operation of the service herein authorized within a period not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11660.

IN THE MATTER OF THE APPLICATION OF SAN GORGONIA POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCKS AND BONDS AND TO MORTGAGE PROPERTY TO SECURE SAID BONDS, FOR PERMISSION TO ENTER INTO A CERTAIN CONTRACT AND LEASE, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, A CORPORATION, TO ENTER INTO A CERTAIN CONTRACT AND LEASE FOR THE PURCHASE OF POWER.

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Application No. 8310.

Decided February 13, 1923.

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BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 11432, dated December 29, 1922, authorized San Gorgonia Power Company to execute a mortgage substantially in the same form as that filed with the Commission on October 6, 1922. The company now reports that it desires to make certain changes in the form of the mortgage it was authorized to execute. On February 7, 1923, it filed a revised copy of its proposed mortgage with the request that the Commission make an order authorizing its execution.

The Commission has considered the terms and provisions of the proposed mortgage and is of the opinion that the company's request should be granted, as herein provided; therefore,

*It is hereby ordered*, that the order in Decision No. 11432, dated December 29, 1922, be and it is hereby amended so as to permit San Gorgonia Power Company to execute a mortgage substantially in the same form as the proposed mortgage filed in the above entitled matter on February 7, 1923; provided,

That the authority herein granted is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction, under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which such mortgage may be subject.

*It is hereby further ordered*, that the order in Decision No. 11432, dated December 29, 1922, shall remain in full force and effect, except as amended by this first supplemental order.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11661.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 7808.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 8184.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

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Application No. 8457.

Decided February 13, 1922.

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BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

In Application No. 7808, and in Application No. 8184.

**FIRST SUPPLEMENTAL ORDER.**

In Application No. 8457.

The California-Oregon Power Company reports that during the months of October and November, 1922, it expended for construction purposes the sum of \$187,924.88, as shown in detail in the schedule attached to the fourth supplemental petition filed in the above entitled matters on January 5, 1923. It appears that the \$187,924.88 includes \$91,409.32 expended in raising the Copco Dam, enlarging the powerhouse and installing a second generating unit at Copco; \$36,845.95 in constructing approximately 115 miles of high tension transmission line from Prospect to Springfield, Oregon; \$22,112.84 in building the Link River Dam and providing for storage on Upper Klamath Lake;

\$12,667.88 in laying new mains on the Klamath Falls water system; and \$24,888.97 for general construction purposes.

The California-Oregon Power Company also reports that a total of \$43,175.16 was expended in refinancing the properties formerly owned by The California-Oregon Power Company and now owned by applicant. Through the refinancing of the properties \$8,283,000 of common stock of The California-Oregon Power Company was canceled and \$4,442,000 of bonds exchanged for \$4,440,000 of common and \$2,220,000 of preferred stock to The California-Oregon Power Company.

Applicant requests that it be permitted to pay the reorganization expenses through the sale of stock. In view of the decrease in the capitalization of the properties and for other reasons, we believe that the reorganization expenses may be financed through the issue of stock. Adding the \$43,175.16 to the \$187,924.88 expended during October and November for construction purposes, makes a total of \$231,100.04.

The Commission by Decision No. 10506, dated May 26, 1922, in Application No. 7808, authorized applicant to issue and sell \$200,000 of its 7 per cent cumulative preferred stock at not less than \$90 per share; by Decision No. 10952, dated September 2, 1922, in Application No. 8184, applicant is authorized to issue and sell \$500,000 of such preferred stock at not less than \$92 per share; and by Decision No. 11395, dated December 23, 1922, in Application No. 8457, applicant is authorized to issue and sell an additional \$500,000 of such stock at not less than \$95 per share.

The orders of the Commission, as amended from time to time, have authorized the company to expend \$471,977.52 of the proceeds to finance construction expenditures made prior to September 30, 1922. The company now asks permission to expend for the purposes indicated in this order, additional proceeds in the amount of \$231,100.04.

The Commission has considered applicant's request and believes that it should be granted, as herein provided; therefore,

*It is hereby ordered*, that The California-Oregon Power Company be and it is hereby authorized to expend not exceeding \$231,100.04 of the proceeds obtained from the sale of the 7 per cent cumulative preferred stock, the issue of which has heretofore been authorized by the Commission, to finance the October and November, 1922, construction expenditures, and to reimburse its treasury on account of moneys expended to pay the reorganization expenses, all of which are referred to in this order, and in the supplemental petitions filed in the above entitled matters.

*It is hereby further ordered*, that the orders in Decision No. 10506, dated May 26, 1922, as amended; in Decision No. 10952, dated September 2, 1922, as amended; and in Decision No. 11395, dated December 23,

1922, shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11662.

IN THE MATTER OF THE APPLICATION OF LOMPOC LIGHT AND POWER COMPANY, A CORPORATION, AND CITY OF LOMPOC, A MUNICIPALITY, FOR PERMISSION AND AUTHORITY TO SELL THE ASSETS OF THE LOMPOC LIGHT AND POWER COMPANY TO THE CITY OF LOMPOC.

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Application No. 8470.

Decided February 13, 1923.

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BY THE COMMISSION.

ORDER.

Lompoc Light and Power Company has asked permission to sell to the city of Lompoc for the sum of thirty thousand dollars (\$30,000) its electric distribution system, and the utility business conducted by means thereof and to discontinue operation. The city of Lompoc has joined in this application.

The physical properties involved in this transfer consist of certain lots, an electric substation, distribution lines, transformers, meters and other appurtenances essential to the business of distributing electric energy, located in and about the city of Lompoc and are specifically described in Exhibit No. 1 attached to the application herein.

The Lompoc electric system to be transferred does not comply with certain requirements of chapter 600 of the state Statutes of 1915. The Lompoc Light and Power Company has been directed by this Commission by Decision No. 11140 to remove the violations of said law but to date has failed to do so. The reconstruction of the system must be completed without further delay and the authority to transfer can only be made upon the agreement by the city of Lompoc to remove all violations within 60 days from the date of this order. The board of trustees of the city of Lompoc have adopted a resolution obligating the city to reconstruct the system as required by law, within 60 days after the transfer of the system to the city.

The Commission is of the opinion that a public hearing in this matter is not necessary, that the interests of the public in general and of the consumers of Lompoc Light and Power Company in particular will be better served as the result of this transfer and that this request should be granted; therefore,

*It is hereby ordered*, that Lompoc Light and Power Company be and it is hereby authorized to sell to the city of Lompoc for the sum



of thirty thousand dollars (\$30,000) its assets of every kind and nature, except money, credits, accounts, liabilities or indebtedness, the physical portions of which assets are specifically described in Exhibit No. 1 attached to the application herein.

*It is hereby further ordered*, that Lompoc Light and Power Company be and it is hereby authorized to cease furnishing electric service in the territory now served by means of the properties to be transferred, if such properties are sold to the city of Lompoc.

The authority herein granted is subject to the following conditions:

1. The authority herein granted shall apply only to such transfer of property as may be effected on or before March 31, 1923.

2. Within thirty days after the execution of the instrument conveying the property herein authorized to be transferred, the city of Lompoc shall file a certified copy thereof with this Commission.

3. The city of Lompoc shall within 60 days from the date of this order remove from the system to be taken over all violations of the state law, chapter 600 of the Statutes of 1915, provided for in this Commission's Decision No. 11140, relative to said system.

Dated at San Francisco, California, this thirteenth day of February, 1923.

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DECISION No. 11663.

IN THE MATTER OF THE APPLICATION OF REEDLEY TELEPHONE  
COMPANY FOR PERMISSION TO ISSUE BONDS AND TO EXECUTE  
A MORTGAGE.

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Application No. 6287.

Decided February 13, 1923.

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BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Good cause appearing:

*It is hereby ordered*, that Reedley Telephone Company be and it is hereby authorized to issue and sell, for cash, on or before June 30, 1923, at not less than 90 per cent of their face value and accrued interest \$15,500 of the \$20,000 of twenty-year 7 per cent bonds authorized by Decision No. 10056, dated February 2, 1922.

*It is hereby further ordered*, that the order in Decision No. 9255, dated July 23, 1921, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this thirteenth day of February, 1923.

## DECISION No. 11665.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR PERMISSION TO CONSTRUCT A SPUR TRACK AT GRADE ACROSS EIGHTH STREET AND ACROSS BRANNAN STREET IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND TO CROSS THE TRACK OF THE MARKET STREET RAILWAY COMPANY SITUATED ON SAID BRANNAN STREET.

Application No. 8635.

Decided February, 15, 1923.

BY THE COMMISSION.

## ORDER.

The Western Pacific Railroad Company, a corporation, having on February 3, 1923, filed with the Commission an application for permission to maintain and operate a spur track at grade across Eighth street and Brannan street and at grade across the track of the Market Street Railway Company situated in said Brannan street in the city and county of San Francisco, State of California, as hereinafter indicated and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary permit (Ordinance No. 3843, new series) has been granted by the board of supervisors of said city and county of San Francisco, for the construction of said crossings at grade; that the Market Street Railway Company has indicated, by agreement, a copy of which is attached to application and marked "Exhibit C," that it has no objection to the construction, operation and maintenance of said track at grade across its tracks, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said Eighth street and Brannan street and with the track of Market Street Railway Company situated in said Brannan street, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted The Western Pacific Railroad Company to maintain and operate a spur track at grade across Eighth street and Brannan street, in the city and county of San Francisco, State of California, described as follows:

Beginning at a point in the center line of the Western Pacific Railroad Company's lead to the outbound freight house in block 412, San Francisco, California; thence in a northerly direction with switch and turnout to the left about 190 feet, crossing the southwest line of Eighth street, approximately 105 feet southeast of the southeast line of Brannan street, and the northeast line of Eighth street approximately 40 feet southeast of the southeast line of Brannan street; thence on a curve to the left about 217 feet, crossing the southeast line of Brannan street approximately 50 feet northeast of the northeast line of Eighth street, and crossing the track of the Market Street Railway Company approximately 80 feet northeast of the northeast line of Eighth street, and crossing the northwest line of Brannan street approximately 110 feet northeast of the northeast line of Eighth street; thence in a northwesterly direc-



tion, parallel to the northeast line of Eighth street and distant 130 feet therefrom, to the center of block 411 and approximately 590 feet from the point of beginning.

All of the above as shown by the map (Exhibit "A") attached to the application; subject to the following conditions, viz:

(1) The entire expense of constructing and maintaining the crossings in good and first class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be maintained of a width and type of construction to conform to those portions of said streets now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

*It is hereby further ordered*, that permission be and it is hereby granted The Western Pacific Railroad Company to maintain and operate its above described spur track at grade across the track of Market Street Railway Company in Brannan street, in the city and county of San Francisco, as shown by the map (Exhibit "A") attached to the application, subject to the following conditions:

(1) The entire expense of constructing and maintaining the crossing in a good and first class condition shall be borne by applicant.

(2) No engine, car or train of applicant shall be operated over said crossing without first having been brought to a stop and shall not proceed thereover until it shall have found that it is safe so to do.

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this fifteenth day of February, 1923.

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DECISION No. 11666.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY, A CORPORATION, FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A CERTAIN SPUR TRACK AT GRADE ACROSS THE SPUR TRACK OF THE LOS ANGELES RAILWAY CORPORATION IN THE CITY OF VERNON, LOS ANGELES COUNTY, CALIFORNIA.

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Application No. 8555.

Decided February 15, 1923.

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BY THE COMMISSION.

ORDER.

Los Angeles and Salt Lake Railroad Company, a corporation, having on January 5, 1923; filed with the Commission an application for per-

mission to construct a spur track at grade across a spur track of Los Angeles Railway Corporation, in the city of Vernon, county of Los Angeles, State of California, as hereinafter indicated and it appearing to the Commission that this is not a case in which a public hearing is necessary; that said Los Angeles Railway Corporation has consented to the construction of said crossing at grade, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said spur track, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted Los Angeles and Salt Lake Railroad Company to construct a spur track at grade across a spur track of Los Angeles Railway Corporation in the city of Vernon, county of Los Angeles, State of California, located in lot one (1) of Tract 2455, as per map book 32, pages 47 and 48, records of said county of Los Angeles, as contained in the office of the county recorder of said county; as shown on the map marked Exhibit "A" attached to the application; subject to the following conditions, namely:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condition shall be borne by applicant.

(2) No engine, car, motor or train of the applicant or of Los Angeles Railway Corporation shall be operated over the crossing without being brought to a stop at a safe distance from the crossing and being preceded over the crossing by a member of its crew who shall determine that it is safe to proceed.

(3) Applicant shall within thirty days thereafter notify this Commission in writing of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this fifteenth day of February, 1923.

## DECISION No. 11667.

IN THE MATTER OF THE APPLICATION OF THE PASADENA CONSOLIDATED WATER COMPANY, A PUBLIC SERVICE CORPORATION, TO CONVEY ITS PROPERTIES TO THE CITY OF PASADENA, CALIFORNIA.

Application No. 8597.

Decided February 15, 1923.

*Anderson and Anderson* by *James A. Anderson*, for Applicant.  
*J. H. Howard*, City Attorney, for the City of Pasadena.

BY THE COMMISSION.

## OPINION.

The above entitled matter is a joint application of the Pasadena Consolidated Water Company, a public service corporation, and the city of Pasadena, a municipal corporation, in which the company asks authorization to convey to the city its public utility water system furnishing domestic and irrigation water in and in the vicinity of Pasadena, Los Angeles County, California.

A public hearing was held in this matter before Examiner Williams at Los Angeles, of which all interested parties were duly notified and given an opportunity to appear and be heard.

It appears from the testimony that the voters of the city of Pasadena at an election held on December 5, 1922, authorized a bond issue in the sum of \$300,000 for the purpose of acquiring the properties of the Pasadena Consolidated Water Company and the Precipice Canyon Water Company. The agreed purchase price of the properties of the Pasadena Consolidated Water Company is \$204,000, exclusive of the shares of capital stock of the Precipice Canyon Water Company, a mutual company, owned by it. However, the entire stock of this mutual company is also being acquired by the city for \$96,000.

The city of Pasadena agrees to take over and serve with water all the territory now served, or obligated to be served, by the Pasadena Consolidated Water Company, both inside and outside of the territorial boundaries of the city of Pasadena; also to assume all obligations, such as contracts and refund agreements, entered into prior to the date of transfer.

No one entered any protest to the granting of this application and it appears that the interests of the water users on this system will be better served if the transfer is made.

## ORDER.

Joint application having been made by Pasadena Consolidated Water Company and the city of Pasadena for authority to transfer certain public utility property, the matter having been heard and being now ready for decision;

*It is hereby ordered*, that the Pasadena Consolidated Water Company be and it is hereby authorized to sell and convey to the city of Pasadena its entire water distributing system, plants and equipment used in the service of water to its consumers, together with lands and other property pertaining thereto, and more particularly described in Exhibit A, attached hereto and made a part hereof, upon the following conditions and none other:

1. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing purposes or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before May 1, 1923, and a certified copy of the instrument of conveyance shall be filed with the Commission by Pasadena Consolidated Water Company within thirty (30) days from the date on which it is executed.

3. Within ten (10) days from the date on which Pasadena Consolidated Water Company actually relinquishes control and possession of the properties herein authorized to be transferred, it shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this fifteenth day of February, 1923.

Property Authorized to be Transferred by Pasadena Consolidated Water Company to  
City of Pasadena.

Application No. 8597.

#### EXHIBIT A.

Parcel 1. Lot "A" in block "E" of Tract No. 875, as per map recorded in book 16, pages 102 and 103 of maps, in the office of the county recorder of said county.

Also that portion of lot 2 in said block "E" described as follows:

Beginning at the northwest corner of said lot; thence southerly 100 feet to a point 25 feet, at right angles, easterly from the westerly line of said lot; thence southerly parallel with said westerly line 80 feet, more or less, to the southerly line of said lot; thence westerly along the same 25.3 feet, more or less, to the southwest corner of said lot; thence northerly along the westerly line thereof 174.46 feet, to the point of beginning.

Parcel 2. Lot "B," Tract No. 1524, as per map recorded in book 20, page 135 of said map records.

Parcel 3. The west 25 feet of lot 123 and the east 25 feet of lot 122 of Tract No. 208, as per map recorded in book 14, page 98 of said map records.

Parcel 4. The south 85 feet of lots 28 and 29 and the north 35 feet of lots 38 and 39 of Tract No. 2123, as per map recorded in book 22, pages 194 and 195 of said map records.

Parcel 6. Part of the Ranchos San Pasqual and Santa Anita, described as follows:

Beginning at the southeast corner of the 104.25 acre tract of land conveyed to Margaret W. Robinson, by deed recorded in book 113, page 381 of deeds, records of said county, said corner being also an angle point in the west line of lot 1 of Tract No. 2694, as per map recorded in book 27, page 40 of maps, in the office of the county recorder of said county; thence northerly along the west line of said lot 1, 110.38 feet,

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more or less, to the easterly prolongation of the south line of lot 10 of Tract No. 208, as per map recorded in book 14, page 98 of said map records; thence westerly, along said prolongation and south line of said lot 10, 254.97 feet to the east line of lot 9 of said Tract No. 208; thence southerly along the east line of said lot 9, to the north line of the Hermitage, as recorded in book 37, page 100, miscellaneous records of said county; thence easterly along said north line of the Hermitage 243 feet, more or less, to beginning.

Parcel 6 (a). Lot 10 of Tract No. 208, as per map recorded in book 14, page 98 of maps, records of Los Angeles County; also that area of land formerly known as Paladora avenue, now vacated as a street, lying southerly from the production easterly of the southerly line of Paloma street.

Parcel 7. Part of the "Hermitage," in the Rancho Santa Anita, as per map recorded in book 37, page 100, miscellaneous records of said county, described as follows, to wit:

Beginning at the northwest corner of said "Hermitage," said corner being a point in the south line of land conveyed by W. C. Robinson to H. H. Visscher, by deed dated October 23, 1882, recorded in book 96, page 28 of said deed records, and distant south  $89^{\circ} 15'$  west, 3.70 chains from the southeast corner thereof; thence north  $89^{\circ} 15'$  east along the north line of said "Hermitage" 1.33 chains to the northwest corner of land conveyed by James Craig and Elinor H. Craig to the Mountain Water Company, by deed dated July 11, 1896, recorded in book 1237, page 140 of said deed records; thence following the boundaries of land so conveyed to the Mountain Water Company, south  $0^{\circ} 40'$  east, .60 chains, north  $89^{\circ} 15'$  east, .41 chains, south  $0^{\circ} 40'$  east, .26 chains and north  $89^{\circ} 15'$  east, 1.96 chains to the southeast corner of land so conveyed to the Mountain Water Company; thence south  $0^{\circ} 40'$  east, 2.14 chains; thence south  $89^{\circ} 15'$  west to the west line of said "Hermitage"; thence north  $0^{\circ} 41'$  west, 3 chains to the place of beginning.

Parcel 8. Lot "D" of Tract No. 1002, as per map recorded in book 18, page 33 of maps, in the office of the county recorder of said county.

Parcel 9. Part of the Rancho San Pasqual, described as follows, to wit:

Beginning at a point in the curved southwesterly line of Altadena drive as conveyed to Los Angeles County, by deed recorded in book 4037, page 203 of deeds, records of said county, said curved line having a radius of 392.09 feet, and said point of beginning being distant northwesterly along said line 95.55 feet from the southeasterly end of said curved line of Altadena drive, said point of beginning being also the easterly corner of land described in book 5704, page 80 of said deed records; thence south  $89^{\circ} 51'$  west along the south line of land conveyed by the last mentioned deed, 384.86 feet, a little more or less, to a point distant 75 feet easterly from the southwest corner of said last mentioned deed; thence south  $0^{\circ} 9'$  east, 250 feet; thence south  $83^{\circ} 34'$  east, 199.62 feet; thence north  $43^{\circ} 28'$  east, 135.21 feet to a point referred to as corner "A"; thence north  $0^{\circ} 9'$  west, 150 feet; thence north  $89^{\circ} 51'$  east, 117.59 feet to a point in the above named curved southwesterly line of Altadena drive; said point of intersection being distant northwesterly along said line 60.67 feet from its southeasterly end; thence north  $43^{\circ} 6' 30''$  east along a radial line of said curve, 30 feet to the center line of said Altadena drive; thence northwesterly on a curve concave to the northeast along the center line of said Altadena drive and having a radius of 362.09 feet, 32.2 feet; thence south  $48^{\circ} 12' 15''$  west along a produced radial line of said last named curve 30 feet to the point of beginning.

Parcel 10. Lot "R" of Tract No. 2762, as per map recorded in book 30, page 51 of maps, in the office of the county recorder of said county.

Also all wells, reservoirs, buildings, structures, pumping plants, motors, equipment, conduits, tunnels, pipe lines, mains, gates, services, easements, rights of way, water, water rights and land, and any and all property belonging to the Pasadena Consolidated Water Company, excepting only lot 2, Tract No. 2988, as per map recorded in book 36, page 9 of maps, records of Los Angeles County, and excepting the grantor's corporate books and accounts, its stocks in corporations, accounts receivable, and cash on hand and in banks.

The foregoing properties are conveyed subject to the following described easements, conditions and restrictions:

1. An easement over that portion of Parcel 9 embraced within the lines of Altadena drive, as conveyed to the county by deed recorded in book 4037, page 203 of deeds.

2. Conditions, restrictions and reservations affecting Parcel 2 as provided in an agreement between Helen L. Brigden, Emma D. Davis, James H. Shultz and Elinor H. Craig, recorded in book 3506, page 51 of deeds.

3. A right of way over Parcel 7 for the purpose of repairing or renewing the Lamanda Park reservoir and water pipes in connection therewith, as conveyed to

Mountain Water Company, a corporation, by deed recorded in book 1237, page 140 of deeds.

4. The provisions and covenants affecting Parcel 8 contained in the deed from Helen L. Brigden, recorded in book 2764, page 219 of deeds, and in deed from Pasadena Park Improvement Company, a corporation, recorded in book 7235, page 235 of deeds.

5. The duty and obligation imposed by law to continue service of water to all persons entitled to such service from the grantor herein. By the acceptance of this deed the grantee agrees to carry out the provisions of contracts respecting service of water heretofore made by the grantor so far as may be necessary to protect the grantor from liability in damages for the breach of such contracts; provided, however, that nothing herein contained shall be construed to limit or restrict the rate fixing power of the grantee, nor its governmental authority to install and replace existing mains under street improvement laws and ordinances and to levy assessments therefor, nor as imposing any liability on the grantee to make any refund or refunds to persons who have contributed or shall contribute to the cost of installing any water main or mains.

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DECISION No. 11668.

IN THE MATTER OF THE APPLICATION OF THE RODEO-VALLEJO FERRY COMPANY, A CORPORATION, FOR LEAVE TO INCREASE PASSENGER RATES BETWEEN MARE ISLAND AND THE CITY OF VALLEJO.

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Application No. 8512.

Decided February 16, 1923.

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FERRY SERVICE.—Increase of single and round trip fare rates by Rodeo-Vallejo Ferry Company denied. Alleged loss of \$1,534.98 for last nine months of 1922 not adequately shown.

BY THE COMMISSION.

OPINION.

In this application Rodeo-Vallejo Ferry Company, a corporation, asks permission to increase passenger rates between Mare Island and the city of Vallejo from 2½ cents a single trip to 5 cents a single trip and from 5 cents a round trip to 10 cents a round trip.

A public hearing was held in the city of Vallejo, January 2, 1923, before Examiner Eddy.

At the hearing applicant asked to have the evidence submitted in Application No. 7817 considered in the application herein.

Rodeo-Vallejo Ferry Company operates passenger ferry service between Mare Island and the city of Vallejo and automobile and passenger ferry service across the Carquinez Straits. The Georgia street terminal at Vallejo is used only for the Vallejo-Mare Island run, and the terminal at Mare Island is owned by the United States government. The steamer, "Vallejo" is, except when out of commission because of repairs, the only steamer used in the Vallejo-Mare Island run.

Applicant alleges a net loss of \$11,534.98 for the last nine months of the year 1922 on the Vallejo-Mare Island run, this period all being subsequent to the acquisition by applicant of the properties used in this service. At the hearing applicant was asked to file estimated revenues

and expenses for the year 1923 and this was submitted to the Commission January 26, 1923. This estimate shows an estimated loss for this year of \$10,736.72.

Subsequent to the hearing an investigation was made of the financial results of the operation of the applicant in the Vallejo-Mare Island run and because of the fundamental relation of this run and applicant's other service, the investigation included all of applicant's operations. As a result thereof it was found that applicant's books and records do not show the actual financial results of operation, nor reflect the changes of the physical property. The alleged loss of \$11,534.98 has not been satisfactorily established by applicant's accounting records.

Under the circumstances the application should be denied without prejudice.

#### ORDER.

Rodeo-Vallejo Ferry Company having applied to the Commission for permission to increase its passenger rates between the city of Vallejo and Mare Island, a public hearing having been held, the matter having been submitted, for the reasons stated in the foregoing opinion;

*It is hereby ordered*, that the application herein be and it is hereby denied without prejudice.

Dated at San Francisco, California, this sixteenth day of February, 1923.

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#### DECISION No. 11674.

WEST BERKELEY IMPROVEMENT CLUB, A VOLUNTARY CIVIC AND COMMERCIAL ORGANIZATION, AND DIVERS CITIZENS AND TAXPAYERS OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR AN ORDER AUTHORIZING THE SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, A CORPORATION, TO CONTINUE DWIGHT WAY STREET CAR LINE NORTHERLY ON SIXTH STREET, IN THE CITY OF BERKELEY AND SIXTH STREET THEREIN,

*vs.*

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, A CORPORATION.

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Case No. 1523.

Decided February 16, 1923.

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EXTENSION OF STREET RAILWAY LINES—COMPANY IS OBLIGATED TO FURNISH SERVICE—COMMISSION HAS NO RIGHT TO ORDER COMPANY TO APPLY FOR FRANCHISE.—Motor bus service suggested to test need of continuation of Dwight way street car line of San Francisco-Oakland Terminal Railways in city of Berkeley.

*George Gelder*, for Plaintiffs.

*Morrison, Dunne and Brobeck*, by *W. I. Brobeck* and *A. L. Whittle*, for Defendant.

BY THE COMMISSION.

#### OPINION.

In this proceeding the West Berkeley Improvement Club, a civic and commercial organization, and ten citizens and taxpayers residing



in West Berkeley join in a complaint against the San Francisco-Oakland Terminal Railways, a corporation, and allege that public convenience and necessity require the extension by defendant of a certain street car line of its system, known as the "Dwight way line," from its present terminus at the southerly intersection of University avenue with Sixth street in Berkeley, along and upon said Sixth street in a northerly direction to the northern city limits of the city of Berkeley. The prayer of the complaint is for an order of the Commission compelling the defendant to extend and continue the existing car line from its present terminus at Sixth street and University avenue, Berkeley, along said Sixth street to the northerly city limits of Berkeley, and to establish and thereafter maintain a regular service and schedule on such desired extension.

The defendant filed its answer herein denying the material allegations of the complaint and as an additional defense and answer alleging that this Commission has no jurisdiction over the subject matter of the complaint.

A public hearing on this proceeding was conducted by Examiner Handford at Berkeley, the matter was duly submitted upon the evidence and upon briefs filed by counsel for complainants and defendant, and is now ready for decision.

Mr. Joseph F. Chase, a witness for complainants, testified that he had been employed to make an investigation of the number of persons employed and residing in the territory bounded by University avenue; by the west side of Ninth street north to the Berkeley line; by the Berkeley city limits to the bay; and by San Francisco Bay. In this territory witness found a resident population of 1173 persons, adults and minors, and 801 persons employed in factories or industrial plants, 426 of the factory employes being prospective patrons of the desired extension of the Dwight way car line. The resident population was secured by inquiry of the witness at each dwelling and the number of employes and their prospective use of the desired extension by inquiry from officials at the several industrial plants.

Other witnesses for complainants, including the Mayor and two of the members of the city council of Berkeley testified as to the necessity for the proposed line to serve the residences and industrial plants in the West Berkeley district; as to interviews had by committees with the officials of defendant regarding the establishment of the proposed railway extension or the possibility of temporarily caring for the needs of the district by the operation of an automobile bus line over the route herein desired.

Defendant, San Francisco-Oakland Terminal Railways, presented as exhibits its estimate covering the cost of construction of the 5200 feet of tract; a map showing all residences in the district and an



estimate of the revenue to be derived from operation and the expense of conducting such service.

According to the map, filed as Exhibit "B" by defendant, there were at the time of the hearing 411 dwellings occupied by 1506 residents, including children, of which number 252 residents left their homes daily in connection with their employment. A portion of the territory included on the map filed as an exhibit is within three blocks of the University avenue car line of the defendant, such portion including the territory bounded by University avenue; San Francisco Bay; Virginia street and Ninth street. We are of the opinion, as heretofore expressed by the Commission in proceedings of this character, that a distance not exceeding three blocks is not unreasonable for the walk required to reach the service of a street car line. The territory beyond the three block distance from an existing car line contains 230 dwellings occupied by 848 residents (including children) of which number 166 leave the district daily by reason of their employment. Defendant estimates the cost of construction of the proposed extension, using standard construction, as \$58,160.17 which includes a single track line with one turn-out, all fully equipped with overhead line construction and oil macadam pavement. No car equipment has been included in this estimate.

This estimate has been checked by our engineers just prior to the making of this order. They estimate that a single track 4100 feet in length with a 300 foot passing track can be constructed for \$35,000, this estimate also being predicated upon standard track construction, but using wood poles, including joint use of the existing poles along the east side of Sixth street. Without this passing siding the estimate is \$30,300.

Defendant submitted estimates of expected revenues and the cost of operation of the proposed extension, the earnings being estimated as follows:

Estimated earnings based on actual count of residents (Sec. "B" only at \$9 per capita per year, \$48) -----		\$7,632 00
From factory workers, 200 rides per day for 300 days per year -----		3,600 00
Total -----		\$11,232 00

This estimate has also been examined with the result that we think the probable additional revenue would be only \$8,700. This figure is predicated upon the 850 residents residing in the territory now situated more than three blocks from the existing car lines of the defendant each riding one hundred times per year more than they now do and that from the 426 factory workers in the district there could be expected one hundred to ride 600 times per year; both classes of traffic to provide six cents in additional revenue per ride.

Defendant also submitted an estimate of operating expenses predicated upon one-man car operation as follows:

*Operating expenses, return upon investment, depreciation, and taxes.*

Operating expenses based on 18 car hours per day (one-man car) at \$1.50 per car hour, 365 days per year.....	\$9,855 00
Return upon investment at 8 per cent.....	5,172 81
Depreciation at 4 per cent.....	2,586 40
State taxes at $5\frac{1}{4}$ per cent of gross revenue.....	589 68
	<hr/>
	\$18,203 86

This statement is not, of course, a proper statement of operating expenses, as it includes items which are not properly chargeable under this heading. Restated, defendant's estimates show a loss of \$1799.08 available for return on the basis of one-man operation and \$4799.08 on two-man operation. The extension of the existing Dwight way line using the same number of cars now operated does not appear feasible, because of the necessity of increasing the headway from ten minutes to approximately fifteen minutes, a service condition which would be unsatisfactory to that portion of the public using this line. The cheapest practical service for this extension would be by means of a one-man car operated in shuttle service between University avenue and Gilman street, from which it is estimated there would be a return of \$785 or 2.6 per cent on the \$30,300 new capital expenditure required. Two-man operation would change this small profit to a loss.

With reference to the use of the one-man car in the city of Berkeley: By Resolution No. 9550 N. S. of the city council it is recorded that the use of one-man cars is undesirable, impracticable and unsafe and the terms of this resolution have been construed by defendant to prohibit the use of one-man cars in Berkeley and no such cars are operated in this city.

Bus operation has also been considered and would, under our estimates of revenue, result in a loss, but under defendant's estimate of revenue, in a small profit on an investment of \$6,600 for an additional bus.

The defendant in its answer, at the hearing and by its briefs filed herein has taken the position that the jurisdiction of the Commission does not extend, under the statutory law, to the right to make its order for the construction of the track extension herein prayed for by complainants; that the construction of the track extensions would require as a condition precedent thereto a franchise from the city of Berkeley and that the Commission has no power to compel the granting of a franchise, such power vesting wholly in such municipality; that the Commission has no jurisdiction to order an extension of a

railroad into new territory; that the construction of the proposed extension and its subsequent operation would increase the present accruing deficit of the defendant's system.

A number of citations appear in the defendant's brief supporting the foregoing contention and particular reference is made to the ruling of the Supreme Court in the case of Atchison, Topeka and Santa Fe Railway Company (1916) 173 Cal. 577, P. U. R. 1917 B 336, a A. L. R. 975, 160 Pac. 828, as follows:

The supervision of service rendered by a railroad company is a proper matter for public regulation and control. The question whether a railroad company shall extend its lines to points not theretofore reached by it, whether, in other words, it shall engage in a new and additional enterprise, is one of policy to be determined by its directors. To compel a railroad company to apply its property to the construction and operation of a line of railroad which it does not desire to construct or operate is to take its property.

While the soundness of this ruling is, of course, unquestioned, we think it is not applicable to the present case. The issues herein presented are not dissimilar from those presented to the Commission in Case No. 1714, an application of the Hollywood Chamber of Commerce for an order for certain car lines of the Los Angeles Railway Corporation to be extended northerly into Hollywood territory (Decision No. 10929, as decided December 1, 1922).

In the above quoted case similar contentions were made by the Los Angeles Railway Company and the following portions of the Commission's opinion in such proceeding appear applicable to the instant case:

The street railway is a common carrier of passengers. It carries all persons who desire to ride. Though it obtains its franchises from the city, it can not exercise those franchises without the consent of the state expressed through the Railroad Commission. Section 50 (b) of the Public Utilities Act provides that,

"No public utility of the class specified in subsection (a) hereof (this includes street railways) shall henceforth exercise any right or privilege under any franchise or permit hereafter granted \* \* \* without having obtained from the Commission a certificate that public convenience and necessity require the exercise of such right or privilege."

Under this section the Los Angeles Railway could not extend its lines if it desired to do so and had obtained the necessary franchises without first obtaining the consent of the Railroad Commission. The city could grant the franchises, but the railway company could not use them unless the Commission found that public convenience and necessity required the extensions. The city's power has to do with the use and occupation of the street, the Commission's power deals with the necessity for the extension itself. If the company must apply to the Commission for consent to make the extension we think the reverse of this is true and the Commission has power to order the company to make the extension.

It is urged by the Los Angeles Railway Company that under the city charter the terms of any franchise which the city could grant are onerous and even confiscatory and that the company could not be compelled to accept such a burdensome franchise even though the city is willing to grant it. We do not think it is necessary to pass upon the validity of the franchise provisions of the city charter. We may assume that these provisions are valid and the company may be required to operate under them. It may be added, however, that the company cannot be required to operate at a loss; but would be entitled to collect a rate which will produce a fair return on all new capital which might be required to carry out the extensions, should they be ordered.

A more serious objection is that to order these extensions would be to require the company to perform a new public service which it has never undertaken to render. This raises the question of whether the proposed service comes within the scope of the undertaking which the railroad company has assumed. There is no doubt as to the legal principle that a public utility cannot be required to dedicate its property to a new and additional enterprise not theretofore undertaken by it. (*Atchison, Topeka and Santa Fe Ry. vs. Railroad Commission*, 173 Cal. 577.)

It is argued that when a company is required to have separate franchises for each street upon which a car line is operated, the undertaking to serve is defined and limited by these franchises. In other words, that the obligation to serve cannot be extended beyond the rights which have been granted. No authority is cited which would justify such a narrow construction of the law as this. The Santa Fe and Del Mar cases hold that a utility cannot be required to engage in an entirely new undertaking, but they do not hold that the present undertaking is limited by, and coincident with, the exact franchise rights held by the utility. We do not think that franchise rights are the correct measure of the scope of a utility's undertaking. When a street railway has entered a given territory, it may, by declarations made to the city council or by other acts or statements, have signified its intention to serve all of that territory. The fact that it does not have franchises to serve all such territory would not relieve it of its obligation. If it has entered and undertaken to serve a community it must make all extensions necessary to fully perform that service.

A different situation arises when a territory has never been entered at all and the utility has never signified its intention of serving it or has always signified its intention of not serving it. In that event there can be no doubt that an order requiring extensions into such territory would be invalid. It is claimed by the railroad companies that this is the situation here.

A situation exists in this proceeding where defendant has signified its intention of serving the territory by an extension of the street car line as herein prayed for by the complainants. The evidence in this proceeding shows testimony of city officials and others who were present at interviews with the vice president and general manager of the defendant company and this Commission in its decision on Application No. 3219 in the matter of the Application of San Francisco-Oakland Terminal Railways for an order readjusting its passenger fares between points in Alameda County and points in Alameda and Contra Costa County, Decision No. 5687 as decided August 13, 1918 (Opinions and Orders of the Railroad Commission of California, Vol. 15, pages 1072, 1077), authorized an amount of \$31,600 as a portion of the rate base, such amount to be expended for the construction of the identical extension herein prayed for. The defendant by such claim for an amount to be expended in the construction of this line to a district at such time termed by the company as being inadequately served, has certainly signified its intention of serving the particular territory and could be required by this Commission to make the extension.

It is concluded, however, from our investigation, that the installation of the street car service as prayed for by the complainants is not justified, especially taking into consideration the general question of extensions in the territory served by defendant. Although there is no doubt in our mind that many extensions are justified, defendant has made practically no extensions in the last ten years, largely

because of the alleged unsatisfactory franchise conditions. Having in mind the whole East Bay territory we are convinced that order to install street car service as prayed for herein is not justified and one important consideration leading to this conclusion is the problematical gross revenue upon the accuracy of which depends the question of the return to be earned. There is also an important question as to operating expenses, as the necessity for two men on the cars may also be the factor which determines whether or not rail service is justified.

On the other hand, bus service should be considered for this line. It has the advantage of small capital expenditure not restricted to this locality; the operating costs are not influenced by the question as to the number of men required and may be estimated with reasonable accuracy and if installed and operated for a reasonable time will determine quite closely what additional revenue is to be derived from the territory to be served. There is certainly an obligation upon the defendant to render some sort of service in this district and it is suggested to defendant that it apply to the municipal authorities for a permit to operate a bus and that it install such service as a trial to determine whether or not the continued operation of motor transportation is justified and also whether or not installation of rail service is required.

With this suggestion this complaint should be dismissed without prejudice.

**ORDER.**

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted following briefs filed by counsel;

*It is hereby ordered*, that the complaint herein be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this sixteenth day of February, 1923.

## DECISION No. 11675.

IN THE MATTER OF THE INVESTIGATION UPON THE COMMISSION'S OWN MOTION INTO THE RATES, RULES, REGULATIONS AND PRACTICES OF B. H. STEFFEN, DOING BUSINESS UNDER THE FICTITIOUS NAME OF CHICO VECINO WATER COMPANY.

Case No. 1848.

Decided February 17, 1923.

*B. H. Steffen, in propria persona.*

BY THE COMMISSION.

## OPINION.

This is a proceeding on the Commission's own motion to investigate the rates, rules, regulations and practices of one B. H. Steffen, doing business as a public utility under the fictitious name of Chico Vecino Water Company. A public hearing in this matter was held before Examiner Satterwhite at Chico, of which hearing the said B. H. Steffen was duly notified. He was ordered to notify each of his consumers of said hearing, and testified that he had done so. Both he and several of his consumers appeared and were given an opportunity to be heard.

The public utility involved in this proceeding serves water for domestic purposes to consumers in and in the vicinity of Chico, Butte County, California. This system dates back to 1911, when defendant Steffen began serving water for compensation to a few of his neighbors. The system has gradually been extended until it now serves the entire district known as Chico Vecino, bounded on the north by Linda Channel and on the south by Big Chico Creek. During the year 1922 some 381 consumers were served. Water is pumped by means of electrically driven centrifugal pumps from wells into elevated tanks, from which the distribution system is supplied. Rates for this public utility water system have heretofore been fixed by this Commission in its Decision No. 6378, dated June 3, 1919, Application No. 4255, as follows:

## MONTHLY METERED RATES.

First 300 cubic feet, per month	\$1 00
Between 300 and 2000 cubic feet, per 100 cubic feet	15
Over 2000 cubic feet, per 100 cubic feet	12
Minimum monthly charge	1 00

At the hearing in this proceeding a number of consumers testified that instead of paying for water service on the above schedule, they were being charged by Steffen and were paying him flat rates fixed by mere mutual agreement with him and varying from \$1.75 to \$2 per month. Several of these witnesses testified that previous to the time they were placed on their present flat rate basis they had been charged

a metered rate under the schedule as ordered by the Commission. No flat rate for water service had been authorized by this Commission, and defendant admitted that he had charged unauthorized rates. In fact, the water use table submitted in evidence by the defendant shows that during the year 1922, out of 381 consumers there were 126 who paid flat rates instead of metered rates, and that these flat rates varied from \$1 to \$2.50 per month. It is evident that this utility's practice of setting various flat rates for its consumers, in addition to creating unauthorized and illegal rates, has been arbitrary and discriminatory as between the respective consumers.

The evidence adduced at this hearing showed that defendant's service was quite generally satisfactory to his consumers, and that the quality of water delivered was also satisfactory. It was demonstrated, however, by the testimony of the defendant, as well as by that of a number of consumers, that the business of this utility is conducted in a very irregular manner. Meters are not read systematically, and likewise the billing and collecting of revenues is conducted in an irregular and unbusinesslike manner. The defendant's testimony also shows that he keeps practically no records from which a reliable inventory of the used and useful property could be prepared, but that he depends entirely on his memory for this information. In addition, the utility's records of maintenance and operation costs, as well as of revenue received from the sale of water, are very incomplete and unsatisfactory. The books of this utility should be kept in accordance with the Commission's "Uniform Classification of Accounts for Water Corporations," and annual reports as prescribed by section 29 of the Public Utilities Act and the rules of this Commission should be filed, this never having been done by this defendant.

At the hearing above mentioned, Mr. J. G. Hunter, one of the Commission's hydraulic engineers, submitted a report which shows the estimated original cost of the used and useful property of the Chico Vecino Water Company to be \$53,636. On this basis, he recommended that an annual replacement annuity of \$856 be allowed, the same being computed by the 6 per cent sinking fund method. This amount set aside annually is designed to provide a fund for the replacement of worn-out properties. The annual maintenance and operation expenses were estimated to be \$4,569.

Allowing the utility full returns on the investment, the annual charges from the above would be as follows:

Interest on the investment, \$53,636, at 8 per cent.....	\$4,290 00
Replacement annuity .....	856 00
Maintenance and operation.....	4,569 00
<b>Total .....</b>	<b>\$9,715 00</b>



The annual revenues were estimated to be \$4,915 for 1921 and \$6,332 for 1922. This, however, was a mere approximation, as no definite figures could be ascertained for either of these years.

From the above it would appear that this utility is entitled to some increase in its revenue, but in the establishment of an equitable rate for the service rendered we feel that due consideration should be given to the conditions under which the system has been operated. Mr. Hunter's report shows that there are approximately 67,000 feet of pipe in the distribution mains of defendant's water system, varying in diameter from one to six inches, to serve about 380 consumers. This would show an average of approximately 176 feet of mains per consumer, which tends to demonstrate that the system is somewhat overbuilt for the present needs. The report also shows that to yield the annual charge set out above, the average annual bill per consumer would amount to \$27.20. Attention is called, however, to the fact that the gross revenue for the year 1922 shows a marked increase over that of 1921.

After due consideration, we find that some adjustment of the rates fixed by this Commission in its Decision No. 6378, referred to above, is necessary to enable defendant to operate on a more remunerative basis. The rate schedule established in the following order is designed to return to defendant a revenue sufficient to pay maintenance and operation charges, together with the replacement annuity and fair return on the property devoted to public use, subject to the circumstances above outlined.

This water system can not, however, be allowed to continue to do business in the irregular and unbusinesslike manner which we have mentioned. Disputes regarding bills long overdue and compromises resulting therefrom, have only served to intensify the discriminations between the several consumers of this system arising from defendant's practice of charging unauthorized flat rates for his service. This Commission is charged with the duty of enforcing the provisions of the Public Utilities Act of this state, and the order will therefore provide that defendant, B. H. Steffen, henceforth charge and collect from his consumers the rates herein fixed, and no others. In addition, he will be required to file with the Commission within 30 days, his annual report for the year 1922, prepared in accordance with the rules which we have hitherto established with reference to such reports, together with a proposed schedule of rules and regulations to govern the service of water from his system.

#### ORDER.

The Railroad Commission of the State of California having instituted an investigation, upon its own motion, into the rates, rules, regulations



and practices of B. H. Steffen, doing business under the fictitious name of Chico Vecino Water Company, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates heretofore charged by B. H. Steffen for water service in so far as they differ from the rates herein established, are unjust and unreasonable and that the rates herein established are just and reasonable.

And basing its order upon the foregoing finding of fact and on the other statements of fact contained in the opinion which precedes this order;

*It is hereby ordered, as follows:*

1. B. H. Steffen shall henceforth keep all records of his water system in accordance with the Commission's Uniform Classification of Accounts for Water Corporations, and not otherwise.

2. B. H. Steffen shall send out a monthly statement to each consumer, showing charges for metered service rendered during the preceding month, and shall collect the rates fixed herein in accordance with such rules and regulations as may be filed with and approved by this Commission, and not otherwise.

3. B. H. Steffen shall, within thirty (30) days from and after the date of the making of this order, file with this Commission his annual report for the year 1922, in accordance with this Commission's requirements for the filing of annual reports by water utilities.

4. B. H. Steffen shall file with the Railroad Commission within ten (10) days from and after the date of the making of this order, the following schedule of rates, said rates to be charged for all water delivered to consumers on and after March 1, 1923, which schedule shall supersede any and all rate schedules heretofore in effect:

MONTHLY METERED RATES.

First 500 cubic feet.....	\$1 50
Between 500 and 2000 cubic feet, per 100 cubic feet.....	20
Over 2000 cubic feet, per 100 cubic feet.....	12

MONTHLY NONMETERED RATES.

Flat rate .....	\$1 50
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5. B. H. Steffen shall file with the Railroad Commission within thirty (30) days from the date of this order, a schedule of rules and regulations to govern his relations with his consumers, said rules and regulations to become effective upon their approval and acceptance by the Commission.

6. The effective date of this order shall be February 25, 1923.

Dated at San Francisco, California, this seventeenth day of February, 1923.

## DECISION No. 11677.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA  
GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE  
AND SALE OF BONDS.

Application No. 8271.

Decided February 19, 1923.

BY THE COMMISSION.

## FIFTH SUPPLEMENTAL ORDER

On September 29, 1922, by Decision No. 11037, the Railroad Commission authorized Southern California Gas Company to issue and sell at not less than 95.65 per cent of face value \$2,000,000 of its first and refunding 5½ per cent thirty-year bonds subject among others to the condition that the proceeds from the sale of \$944,483.40 face value of such bonds be deposited with the trustee and expended only for such purposes as the Railroad Commission might authorize.

By several supplemental orders made in the above entitled matter, the Commission has authorized applicant to use the proceeds from the sale of \$741,000 of said \$944,483.40 of bonds to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its plant and properties up to and including November 30, 1922, or to pay floating indebtedness incurred for the purpose of making such additions and betterments.

The company on February 9, 1923, filed a statement with the Commission showing in some detail that during the month of December, 1922, it expended for construction purposes the sum of \$226,779.93 which has not been paid or provided for by the issue of bonds. Because of such expenditures it asks permission to use the proceeds from the sale of \$170,000 of the bonds authorized by Decision No. 11037 to reimburse its treasury on account of earnings temporarily used to pay for such construction work or to pay current indebtedness incurred for such purpose.

The Commission has considered applicant's request and believes that it should be granted, as herein provided; therefore,

*It is hereby ordered*, that the order in Decision No. 11037, dated September 29, 1922, as amended, be and it is hereby modified so as to permit Southern California Gas Company to use, on or after the date hereof, the proceeds from the sale of \$170,000 face value of the first and refunding mortgage bonds, the issue of which is authorized by that decision, to reimburse its treasury on account of earnings temporarily used to pay for additions and betterments to its plant and properties up to and including December 31, 1922, or to pay floating debt incurred for the purpose of paying for such additions and betterments.

*It is hereby further ordered*, that the order in Decision No. 11037, dated September 29, 1922, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

Dated at San Francisco, California, this nineteenth day of February, 1923.

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DECISION No. 11684.

IN THE MATTER OF THE APPLICATION OF THE CITY OF MONTEBELLO, A MUNICIPAL CORPORATION, FOR PERMISSION TO CONSTRUCT VAIL AVENUE AT GRADE ACROSS THE TRACKS OF THE UNION PACIFIC RAILROAD COMPANY.

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Application No. 8561.

Decided February 20, 1923.

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BY THE COMMISSION.

**ORDER.**

The board of trustees of the city of Montebello, county of Los Angeles, State of California, having on January 9, 1923, filed with the Commission an application for permission to construct Vail avenue, in the city of Montebello, at grade across the tracks of Union Pacific Railroad Company and having on January 26, 1923, filed an amendment to said application substituting the words "Los Angeles-Salt Lake Railroad Company" for the words "Union Pacific Railroad Company," and it appearing to the Commission that this is not a case in which a public hearing is necessary; that said Los Angeles and Salt Lake Railroad Company has signified by letter that it has no objection to the construction of said crossings at grade, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said tracks, and that the application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be hereby granted the board of trustees of the city of Montebello, county of Los Angeles, State of California, to construct a street at grade across the tracks of the Los Angeles and Salt Lake Railroad Company at Vail avenue in the location shown on the map attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings shall be borne by the applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by the applicant. The maintenance of that portion of the crossings between lines two (2) feet outside of the outside rails shall be borne by the Los Angeles and Salt Lake Railroad Company.

(2) The crossings shall be constructed of a width not less than twenty-four (24) feet and at an angle of sixty-nine (69) degrees and

forty-nine (49) minutes to railroad and with grade of approach not greater than two (2) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of said crossings at the expense of applicant. Said flagman to be of a type and installed in accordance with plans or data approved by the Commission. The maintenance of said flagman shall be borne by Los Angeles and Salt Lake Railroad Company.

(4) Applicant shall within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this twentieth day of February, 1923.

## DECISION No. 11692.

IN THE MATTER OF THE APPLICATION OF WALTER KIELHOFFER FOR AN ORDER GRANTING PERMISSION TO SELL AND TRANSFER, AND LORNE L. WRIGHT TO PURCHASE AND OPERATE A CERTAIN PORTION OF AUTO TRUCK MILK ROUTE OPERATED BETWEEN DAIRY RANCHES LOCATED IN ANTELOPE VALLEY AND THE CREAMERIES IN LOS ANGELES.

Application No. 8665.

IN THE MATTER OF THE APPLICATION OF WALTER KIELHOFFER TO SELL AND TRANSFER AND JAMES J. KERSHAW TO PURCHASE A CERTAIN PORTION OF AUTO TRUCK MILK ROUTE OPERATED BETWEEN DAIRY RANCHES LOCATED IN ANTELOPE VALLEY AND CREAMERIES IN CITY OF LOS ANGELES.

Application No. 8666.

Decided February 20, 1923.

AUTOMOBILE TRUCK LINES—TRANSFER OF OPERATIVE RIGHTS.—Creation of two distinct individual operative rights where only one was originally established through declaration of the Railroad Commission would be clearly in violation of the provision of chapter 213, Statutes of 1917. No greater or different right can be established through transfer than that originally created through declaration of the Commission.

BY THE COMMISSION.

**ORDER.**

In the two proceedings entitled as above Walter Kielhofer applies jointly with Lorne L. Wright and James J. Kershaw, the latter two as individuals, for permission to transfer a certain certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of milk between ranches located in Antelope Valley adjacent to the town of Lancaster and the city of Los Angeles.

Under Decision No. 9449, in Application No. 6787, dated August 31, 1921, the Railroad Commission granted to Walter Kielhofer, applicant herein, a certificate of public convenience and necessity authorizing the operation of an automobile truck line for the transportation of milk and dairy products between ranches located within a radius of fifteen miles of the town of Lancaster and the city of Los Angeles, California.

In the present proceeding applicant Kielhofer applies for permission to transfer to applicant Wright a certificate authorizing the operation of an automobile truck line as a common carrier of milk and dairy supplies from ranches located on the east side of the state highway in the Antelope Valley to Los Angeles and to transfer to applicant Kershaw a certificate authorizing the operation of an automobile truck line for the transportation of milk and dairy supplies from ranches located on the west side of the state highway in the Antelope Valley to Los Angeles. In other words, through application herein under consideration applicant Kielhofer is attempting, by transfer,

to create two distinct individual operative rights where only one was originally established through declaration of the Railroad Commission, a proceeding which would clearly be in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto, in that no greater or different right can be established through transfer than that originally created through declaration of the Railroad Commission. Accordingly, both applications must be denied.

*It is hereby ordered,* that the above entitled applications be and the same hereby are denied.

Dated at San Francisco, California, this twentieth day of February, 1923.

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DECISION No. 11700.

IN THE MATTER OF THE APPLICATION OF DILLINGHAM TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER PERMITTING IT TO ISSUE AND SELL CERTAIN SHARES OF ITS CAPITAL STOCK.

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Application No. 8614.

Decided February 21, 1923.

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*Kidd and Hardy*, by *H. W. Kidd*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application, Dillingham Transportation Company asks the Railroad Commission to make an order authorizing it to issue 1105 shares of its capital stock of the total par value of \$110,500, and to assume the payment of indebtedness aggregating \$46,251.81. The company proposes to sell three shares at par for cash for the purpose of qualifying directors, and to sell 1102 shares at \$90 per share net for the purpose of acquiring the properties of H. L. Dillingham and E. B. Dillingham and paying the assumed indebtedness.

A public hearing was held before Examiner Williams in Los Angeles on February 9, 1923.

It appears that H. L. Dillingham and E. B. Dillingham, under the firm name and style of Dillingham Transportation Company, a copartnership, are engaged in operating auto stages for the transportation of passengers and baggage between Pasadena and Long Beach, via Whittier, Santa Fe Springs, Norwalk, Downey and other points, and between Long Beach and Santa Monica via Redondo, Venice and Ocean Park. The revenues and expenses of this business for the year ending December 31, 1922, are reported as follows:

Operating revenues—	
Passenger revenues	\$75,016 06
Express revenues	100 63
	<hr/> \$75,116 69

## Non-operating revenues—

Rents from buildings, etc.	\$4,799 00
Rents from equipment	3,834 75
Storing and checking	115 10
	<u>\$8,748 85</u>
Total	\$83,865 54

## Operating expenses and other disbursements—

Conducting transportation	\$32,720 15
Maintenance expenses	9,760 45
Depreciation	7,504 03
Traffic expenses	4,244 49
General and miscellaneous expenses	19,440 73
Interest	2,834 84
	<u>76,504 69</u>
Total	76,504 69
Net profit	\$7,360 85

Believing that the business could be conducted more economically and efficiently by a corporation than by a copartnership, H. L. Dillingham and E. B. Dillingham have caused the incorporation of Dillingham Transportation Company for the purpose of acquiring and operating their properties and business. The articles of incorporation of Dillingham Transportation Company show that it was organized on or about November 28, 1922, with an authorized capital stock of \$150,000, divided into 1500 shares of the par value of \$100 each. On January 24, 1923, by Decision No. 11551, it was authorized to acquire the operative rights of the Dillinghams. The present petition involves the issue of \$110,500 of stock to acquire properties. These properties and their estimated reasonable present value are reported by applicant as follows:

12 automobile busses with specially built bodies, 1 touring car and 1 coupe	\$72,837 82
Furniture and fixtures	426 86
Automobile tools and equipment	203 18
Automobile tires and tubes	2,509 27
Prepaid interest on contracts for the purchase of automobile stages	2,924 68
Prepaid insurance	2,198 35
Stationery, printed matter, tickets	224 75
Prepaid taxes	321 48
Value of terminal leases at Pasadena and Long Beach	7,500 00
Value of goodwill, business name, etc.	10,000 00
Total	<u>\$99,146 39</u>

The testimony of H. L. Dillingham and exhibits herein show that the value of the automobiles, furniture and fixtures and automobile tools and equipment was determined by deducting from the actual original cost amounts representing estimated depreciation accrued since the date of purchase. The value of tires and tubes, printing, stationery and tickets, and the prepaid interest, insurance and taxes, represent amounts actually expended.

The item of \$7,500 for leaseholds represents an alleged value of two leases of terminal sites in Pasadena and Long Beach which applicant



will receive from the Dillinghams. The lease of the Long Beach property is dated April 23, 1920, expires May 31, 1925, and calls for a gross rental of \$300 a month, of which \$150 is paid by the Dillinghams and \$150 by the Crown Stages. It appears that a portion of the space is sublet under arrangements calling for a monthly rental by sublessees of \$400, of which applicant will receive one-half. The Pasadena lease, dated January 1, 1921, and expiring January 1, 1924, calls for a monthly payment of \$100, of which \$25 is paid by the Dillinghams. Here, as in Long Beach, space is rented to sublessees. The total amount received from these sublessees aggregates \$100 a month, of which applicant will receive one-quarter. No profit accrues on the Pasadena lease.

Applicant will acquire the leases and receive rent from sublessees sufficient to pay its own rental expenses, and to yield a profit of \$50 a month. Because of this favorable condition it alleges that these leases possess a value to it of not less than \$7,500. It will be noted, however, that the lease to the Long Beach properties expires in slightly more than two years and the one to the Pasadena terminal in less than one year from the present time. No showing was made by applicant at the hearing that these leases can be renewed upon their expiration and we do not believe that applicant has justified the issue of stock against an allowance of \$7,500 for value attaching to such leases. During the term of the lease, from January 1, 1923, applicant will receive \$1,450. On condition that the money so received is invested in property, the Commission will permit the issue \$1,600 of stock against leases.

H. L. Dillingham and E. B. Dillingham are asking Dillingham Transportation Company to pay them \$10,000 for goodwill, going concern value and the value of the business name of Dillingham Transportation Company. In support of this claim, they allege that service was started during the early part of 1918 with one ten-passenger stage, that patronage at first was small and the operations unprofitable. From time to time the lines and service were expanded, new operative rights were secured, extensive advertising was done, traffic arrangements were made with other carriers, and the business was built up until at present there are in use 12 stages which produced a net profit during 1922 of over \$7,000. The Commission will not authorize the issue of stock against goodwill or going concern value. It appears, however, that applicant's incorporators have incurred some expense in establishing the business. We believe that applicant should be permitted to issue \$3,000 of stock on account of promotion expenses.

Applicant proposes to acquire the properties referred to in this proceeding subject to outstanding indebtedness of \$46,251.81, consisting of \$42,052.11 due on contracts for the purchase of automobiles and \$4,129.70 of current unsecured accounts payable representing chiefly money borrowed to pay for materials and supplies. Applicant proposes



to use a part of the proceeds from the sale of the stock herein applied for to pay this indebtedness.

It appears that no change is planned in the management or control of the business as a result of this proposed transfer and that the public will not be inconvenienced.

The order herein will permit applicant to issue \$95,600 of stock subject to the conditions of the following order:

#### ORDER.

Dillingham Transportation Company having applied to the Railroad Commission for permission to issue \$110,500 of stock, and to assume the payment of indebtedness, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the assumption of this indebtedness and the issue of \$95,600 of stock is reasonably required by applicant;

*It is hereby ordered*, that Dillingham Transportation Company be and it is hereby authorized to issue 956 shares of its capital stock of the total par value of \$95,600 and to assume the payment of indebtedness aggregating \$46,251.81.

*It is hereby further ordered*, that the application, in so far as it relates to the issue of 149 shares of the par value of \$14,900, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. Three shares of the stock herein authorized may be sold to applicant's directors at par for cash, and the proceeds used for working capital.

2. Five hundred fourteen shares may be sold at not less than \$90 per share net to the company. The proceeds shall be used to pay the indebtedness which applicant is herein authorized to assume.

3. Four hundred thirty-nine shares may be delivered to H. L. Dillingham and E. B. Dillingham in part payment for the business and properties referred to in the foregoing opinion, subject to the indebtedness referred to in this order.

4. The profit realized from the leases referred to in the foregoing opinion shall be invested by applicant in equipment and properties.

5. The authority herein granted shall not be interpreted as a finding of value of such properties for rate fixing or for any purpose other than this transfer.

6. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

7. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act and will expire on December 15, 1923.

Dated at San Francisco, California, this twenty-first day of February, 1923.

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DECISION No. 11705.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CONSTRUCT A SPUR TRACK AT GRADE ACROSS FIRST STREET IN THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA.

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Application No. 8683.

Decided February 21, 1923.

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BY THE COMMISSION.

**ORDER.**

Southern Pacific Company, a corporation, having on February 15, 1923, filed with the Commission an application for permission to construct a spur track at grade across First street in King City, county of Monterey, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit (Resolution No. 1) has been granted by the board of trustees of said King City for the construction of said crossing at grade, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said First street, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted Southern Pacific Company to construct a spur track at grade across First street in King City, county of Monterey, State of California, described as follows:

Beginning at a point on the northeasterly boundary line of First street, said point being distant northwesterly three hundred twenty-eight (328) feet, more or less, measured along said northeasterly boundary line of First street from the northwesterly boundary line of Division street produced northeasterly across First street; thence in a northwesterly direction on a curve to the left crossing First street diagonally to a point on the southwesterly boundary line of First street, said point being distant northwesterly four hundred eighty-five (485) feet, more or less, measured along said southwesterly boundary line of First street from the northwesterly boundary line of Division street.

All of the above as shown by the map (Coast Division Drawing 20049) attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condi-

tion for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossing shall be constructed of a width and type of construction to conform to that portion of First street now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding one (1) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) No car shall be moved over said crossing except when such car is coupled to a locomotive, and no car or locomotive shall be operated over said crossing unless it be preceded by a flagman who shall give suitable warning to travelers approaching on the highway.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective five (5) days after the making thereof.

Dated at San Francisco, California, this twenty-first day of February, 1923.

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DECISION No. 11714.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST MORTGAGE FIVE PER CENT GOLD BONDS OF THE AGGREGATE FACE VALUE OF TWENTY-TWO MILLION DOLLARS.

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Application No. 8546.

Decided February 23, 1923.

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

The Railroad Commission by Decision No. 11467, dated January 6, 1923, authorized Spring Valley Water Company to issue \$22,000,000 face value of 5 per cent twenty-year bonds, or in lieu thereof, interim certificates of a like amount. The decision provides that upon having

received authority from the Commission to execute a mortgage or deed of trust securing the payment of the bonds, applicant may use such part of the proceeds as is necessary to pay or refund the \$750,000 of 5 per cent notes due February 1, 1923, the \$2,500,000 of 6 per cent collateral trust notes due March 1, 1923, and the \$17,859,000 of 4 per cent general mortgage bonds due December 1, 1923. Any proceeds not used to pay the indebtedness may be expended only for such purposes as the Railroad Commission will hereafter authorize.

Applicant in a supplemental petition filed in the above entitled matter reports that the mortgage or deed of trust securing the payment of the bonds is in the course of preparation but can not be completed within such time as will permit applicant to submit the same to the Railroad Commission for its approval prior to March 1, 1923. Applicant requests that the Commission modify its Decision No. 11467, dated January 6, 1923, so as to permit applicant to use not exceeding \$2,500,000 of the proceeds obtained from the sale of interim certificates to pay the \$2,500,000 of 6 per cent three-year collateral trust notes due March 1, 1923.

The Commission has considered applicant's request and believes that it should be granted; therefore,

*It is hereby ordered*, that the order in Decision No. 11467, dated January 6, 1923, be and it is hereby amended so as to permit Spring Valley Water Company on and after the date hereof to expend not exceeding \$2,500,000 of the proceeds obtained from the sale of interim certificates, the issue of which is authorized by said decision, to pay the \$2,500,000 of 6 per cent three-year collateral trust notes due March 1, 1923.

*It is hereby further ordered*, that the order in Decision No. 11467, dated January 6, 1923, shall remain in full force and effect except as modified by this First Supplemental Order.

Dated at San Francisco, California, this twenty-third day of February, 1923.

## DECISION No. 11715.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, A CORPORATION, FOR AUTHORIZATION TO ISSUE PROMISSORY NOTES, TO EXECUTE A COLLATERAL TRUST AGREEMENT AND TO PLEDGE BONDS THEREUNDER TO SECURE SAID NOTES.

Application No. 5304.

Decided February 23, 1923.

BY THE COMMISSION.

## FIRST SUPPLEMENTAL ORDER.

Good cause appearing:

*It is hereby ordered*, that Condition "2" of the order in Decision No. 7129, dated February 13, 1920, reading:

When all or any part of the notes herein authorized are paid, all or a proper proportion of the bonds pledged as collateral shall be returned to applicant's treasury and thereafter issued by applicant only as authorized by the Commission.

be and it is hereby amended so as to read:

Upon the payment of the \$2,500,000 of three-year 6 per cent notes, applicant may deposit with the trustee under its proposed mortgage securing the payment of the bonds authorized by Decision No. 11467, dated January 6, 1923, \$2,500,000 of its general mortgage 4 per cent bonds deposited as collateral to secure the payment of said \$2,500,000 of notes. The remainder of the general mortgage 4 per cent bonds deposited as collateral to secure the payment of such notes shall, upon the payment of such notes, be returned to applicant's treasury and thereafter issued by applicant only as authorized by the Commission.

Dated at San Francisco, California, this twenty-third day of February, 1923.

## DECISION No. 11716.

THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION,

*vs.*THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY,  
A CORPORATION.

Case No. 1670.

THE CITY OF NATIONAL CITY, A MUNICIPAL CORPORATION,

*vs.*THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY,  
A CORPORATION.

Case No. 1677.

THE CITY OF CHULA VISTA, A MUNICIPAL CORPORATION,

*vs.*THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY,  
A CORPORATION.

Case No. 1678.

Decided February 24, 1923.

**RATES—LEGALITY OF.**—Complaints allege present rates and in particular, long distance toll rates between points in San Diego County, were established without necessary legal notice and without opportunity to interested parties to be heard thereon. The United States Supreme Court having sustained the authority of Postmaster General to establish rates during period of federal control of defendant's lines, it is held that rates so established are legal rates until changed by the Commission.

**SERVICE—FREE SWITCHING—COMPETITION—CONSOLIDATION—DISCRIMINATION.**—As a result of two telephone companies competing for business in same territory, free switching between separate communities became the practice. Competitive operation having given place to consolidation, free switching discontinued under federal authorization except between certain communities. Held that discontinuance of free switching between certain communities and continuance of free switching between others, in absence of showing that community interest justifies, is discriminatory. Discrimination ordered removed.

**COMMUNITY INTEREST—TOLL RATES.**—Held that community interest justifying elimination of toll rates does not exist. Standard toll rates ordered uniformly established.

**LOCAL EXCHANGE SERVICE—RATES.**—Held that monthly rates sufficient to provide unlimited switching service between separate communities would impose unreasonable burden on majority of users. Local exchange rates established at El Cajon and Pacific Beach.

*S. J. Higgins and C. G. Sellnick*, for City of San Diego.

*Ray M. Harris*, for National City.

*F. B. Andrews and J. H. McCulloch*, for City of Chula Vista.

*Henry C. Gardiner*, for City of Pacific Beach.

*Arthur Wright*, for City of Coronado.

*P. S. Thacher*, for City of El Cajon.

*J. C. Harper*, for City of La Jolla.

*Morris R. Bernard*, for Mrs. Ada R. Carter.

*James T. Shaw, Pillsbury, Madison and Sutor*, and *Wright and McKee*, for The Pacific Telephone and Telegraph Company.

MARTIN, *Commissioner*.

## OPINION.

In the above entitled proceedings, complaint is made by the cities of San Diego, National City and Chula Vista alleging that the rates of

defendant, The Pacific Telephone and Telegraph Company, now in force in these cities were made effective without opportunity having been given to complainants to be heard as to their reasonableness, and that they are unjust, unreasonable and discriminatory. In each of the complaints the Railroad Commission is asked to determine and fix just and reasonable rates, and the complaint of Chula Vista asks that reparation be ordered for such excessive rates as may be found to have been charged and collected. The Commission is also asked to order the elimination of toll rates, now in effect, for switching between these three cities and between them and other communities in San Diego County. The three matters having been consolidated for hearing, were heard in the city of San Diego and are now ready for decision.

During the year 1918, this Commission authorized the purchase by The Pacific Telephone and Telegraph Company from the San Diego Home Telephone Company of the system and property of the latter company, then operated by it in the city of San Diego and in the other communities involved in the present proceedings. Consolidation of the two systems was thereupon undertaken by defendant, The Pacific Telephone and Telegraph Company, but before the consolidation was completed federal operation and control superseded state regulation.

Prior to the sale and consolidation authorized by the Commission, the two companies, here referred to, were operating competitive systems within the same general territory and, as a result of competitive operation, each company allowed its subscribers unlimited interexchange switching without the payment of toll charges therefor. The Commission's order authorizing the sale and consolidation did not authorize any alteration either in the existing rates or in these free switching privileges. During the period of federal control, however, various rate adjustments, which were authorized by the Postmaster General of the United States, acting in behalf of the federal government, were made effective by defendant throughout its territory, including the territory involved herein. The authority of the Postmaster General to establish rates during this period having been sustained by the United States Supreme Court, the rates made effective at that time, within this territory, were the legal rates when federal control came to a close at midnight on July 31, 1919, and were so recognized by this Commission in its General Order No. 57, dated August 1, 1919. This general order continued the rates in effect which were actually being charged at midnight on July 31, 1919, until changed by further order of the Commission.

The rates now in effect throughout the territory involved in these proceedings, except those applying to El Cajon and Pacific Beach, and which it is alleged by complainants are unjust, unreasonable and discriminatory, are rates which were made effective during federal control.



At El Cajon, rates which were also authorized by order of the Postmaster General were not made effective by defendant until August 6, 1919, a date subsequent to the termination of federal control. This fact having come to the notice of the Commission in a letter from defendant asking whether it was correct in assuming that rates authorized during federal control but not actually made effective before federal control ended could thereafter become legally effective, the Railroad Commission called defendant's attention to the fact that General Order No. 57 continued in effect the rates which were in effect at midnight on July 31, 1919. The rates made effective on August 6, 1919, at El Cajon were thereupon discontinued and those actually in effect on July 31, 1919, at El Cajon and Pacific Beach were restored. With the restoration of the latter rates, the unlimited switching which had been permitted for subscribers at these points to other exchanges within the territory herein involved was likewise restored. As a result, discrimination was created in that in the other exchanges referred to, the monthly rates had been increased and toll rates had been made effective in lieu of the former free switching, a discrimination, however, which defendant was powerless to correct except by reverting to the rates which were effective at other exchanges prior to federal control.

Complainants allege that as to San Diego, Chula Vista, La Jolla, National City and Coronado, the discontinuance of free switching has curtailed the service and, at the same time, increased its cost. It is also alleged that a community interest exists between San Diego and all of the other communities involved herein justifying and requiring access to free unlimited telephone communication with San Diego. Defendant maintains that the unlimited switching, which was discontinued when the rates authorized by the Postmaster General were made effective, was unwarranted by such community interest, if any, as may exist, or by the monthly rates which all subscribers of the several communities would be called upon to pay if it were continued, and that as to the alleged unreasonableness of the increased rates, they are still unreasonably low. In support of the latter claim, defendant offered in evidence Exhibits No. 2 and No. 3, showing that for the year 1920, each of the exchanges involved was operated at an actual loss, the aggregate of which is shown to be approximately \$82,000, and that for the year 1921, Coronado was the only exchange not operated at an actual loss, the aggregate losses for the others amounting approximately to \$45,000. Defendant states as to the discontinuance of unlimited interexchange switching, that its discontinuance between these communities was but one of various similar instances in which free switching between exchanges was discontinued under orders issued by the Postmaster General. It represents also that if the present toll rates were discontinued, as asked by complainants, it would become necessary



immediately to increase very substantially the present monthly rates at all of the exchanges involved, thus imposing an unreasonable burden on those subscribers who do not require unlimited interexchange switching and who now make only limited use of interexchange toll service.

As to the claim urged by complainants that a community interest exists between these various communities justifying and requiring the restoration of free switching: It is true in this case that the various communities within the territory adjacent to the city of San Diego do transact a considerable amount of business with the city of San Diego and that said communities have more or less interest in the social and other affairs of San Diego. These facts are not unusual in this case, nor do they appear to be any different in this respect to similar conditions and relations existing between all large centers of population and the communities surrounding them. As to these interests being sufficient, however, to justify and require free interexchange switching, the testimony of witnesses shows clearly to the contrary as to Chula Vista, Coronado, El Cajon, La Jolla and National City. Not only is this true, but it is admitted by various witnesses appearing for the cities of San Diego, Chula Vista, Coronado and National City that one of the chief objections to the payment of toll charges is its tendency to divert business to other cities. As to Pacific Beach, the evidence shows that this community is largely a suburban residence section of the city of San Diego, largely dependent on that city in its business, social and other interests. It is one of the two communities involved in which the free switching with San Diego was not discontinued during the period of federal control. Its monthly rates, however, are very much lower than those in effect in San Diego and they are also somewhat lower than the rates which were made effective during federal control at other exchanges where the free switching privilege has been discontinued. Pacific Beach is, therefore, in a similar situation with El Cajon as to the matter of discriminatory rates. To avoid this discrimination, its monthly rates should be adjusted to conform with those effective in San Diego or free switching should be discontinued and the monthly rates made to conform with those of other communities for similar service.

Defendant's Exhibit No. 5 is a statement showing the amounts paid by subscribers of the Chula Vista, Coronado, Del Mar, La Jolla, La Mesa and National City exchanges for toll messages to San Diego during the month of August, 1921. It shows also, in graphic form by terms of percentage, the number of subscribers at each of these places making no use at all, or a limited use, of the service to San Diego in comparison with the number making general or more extensive use of service and also, in terms of percentage, of total charges, the amounts paid in each case for the service. These figures, indicating as they do

the distribution of payment for toll service among subscribers under the present system of charges, it seems desirable to present them in the following table:

	Charges below average		Charges above average	
	Per cent of total charges made	Per cent of total subscribers using	Per cent of total charges made	Per cent of total subscribers using
Ohula Vista -----	19.2	77.6	80.8	22.4
Coronado -----	27.9	72.3	72.1	27.7
Del Mar -----	11.5	76.2	88.5	23.8
La Jolla -----	23.7	71.1	76.3	28.9
La Mesa -----	24.2	65.6	75.8	34.4
National City -----	29.4	74.0	70.6	26.0

From this it will be observed that approximately 70 to 75 per cent of the total subscribers at each of those points paid approximately only 20 to 25 per cent of the total toll charges and, conversely, from 25 to 30 per cent of the total subscribers paid 75 to 80 per cent of the total toll charges. In other words, this indicated use of interexchange switching would mean that if all toll charges now collected at these communities were eliminated and if flat monthly rates were substituted, 70 to 75 per cent of the total subscribers would be required to pay, in large measure, 75 to 80 per cent of the cost of service which is used by 25 to 30 per cent of the total subscribers, and this in addition to what they pay for the service which they themselves use. The view is expressed by some of the witnesses testifying for complainants that flat rates entitling subscribers to free switching between exchanges would not be objectionable. This expression, however, is not sufficiently general to indicate that it will be agreeable to the majority, and not only is it extremely doubtful whether any considerable number would be willing voluntarily to assume the amount of increase which it appears from defendant's Exhibits No. 2 and No. 3 previously referred to, might be necessary, but it would be unreasonable to shift the burden to them even though they may be willing that it be done.

With reference to the position taken by complainants that defendant's rates established by authority of the Postmaster General during the period of federal control were established without an investigation by this Commission and without the opportunity being afforded complainants to be heard as to their reasonableness:

As previously stated, the authority of the Postmaster General to establish rates for telephone service during the period of federal control here referred to has been upheld by the Supreme Court of the United States. Counsel for defendant states that even though the Postmaster General had the legal right to establish rates, the rates thus established

within these communities were not established without due investigation by proper representatives of the federal government. In order that their legal status might be placed beyond controversy, the Railroad Commission issued its General Order No. 57, previously referred to. There is no question, therefore, as to defendant's legal authority to charge and collect the rates established during federal control.

The existence of discrimination in favor of El Cajon and Pacific Beach is obvious and is admitted. Its removal calls either for the restoration of free switching between the remaining communities or for the discontinuance of the free switching now allowed subscribers at these exchanges, no justification for an exception permitting its continuance under the circumstances now obtaining, having been shown. The removal of discrimination would also require the adjustment of the monthly rates either at El Cajon and Pacific Beach or at the remaining exchanges. The restoration of free switching to the remaining communities obviously would necessitate increasing the monthly rates. This, the Commission is not asked to authorize and it is not now advised sufficiently to determine what would be reasonable rates under the circumstances now obtaining. Considering this and the other facts previously referred to, it is our opinion that the existing discrimination should be removed by discontinuance of the free switching now allowed to subscribers of El Cajon and Pacific Beach and by the application of monthly rates at these two exchanges corresponding to the rates at present in effect at other points within this territory for similar service.

#### ORDER.

Complaint in the proceedings entitled as above having been filed with the Railroad Commission by the cities of San Diego, National City and Chula Vista, Complainants, vs. The Pacific Telephone and Telegraph Company, Defendant, alleging that the rates charged by defendant in each of said cities prior to the month of May, 1918, were increased during the year 1918 by the Postmaster General and that a toll charge between said cities and other cities in San Diego County was added without a hearing or investigation by the Railroad Commission and without affording complainants or the citizens and people of said cities an opportunity to have said increase in rates investigated and determined as to their reasonableness and that said rates are unjust, unreasonable and discriminatory and asking after investigation and hearing by the Commission that the rates, tolls and charges now authorized to be collected by defendant be decreased and made reasonable and just and that the toll charges between said cities and between them and other cities in San Diego County be eliminated, and asking that the Commission adopt and fix just and reasonable rates to be charged

by defendant in said cities and between said cities and other cities within said San Diego County; public hearings having been held, the matters having been submitted and being now ready for decision,

The Railroad Commission hereby finds as follows:

1. That the rates, tolls and charges established and made effective by defendant within and between the various communities herein involved during the period of federal control and operation of defendant's lines and systems have heretofore been found and declared by this Commission to be the legal rates until such time as they, or any of them, may be changed by this Commission.

2. That discrimination exists as to subscribers and patrons of defendant in the cities of El Cajon and Pacific Beach with relation to the monthly rates charged and collected by defendant from its said subscribers and patrons in said cities and with relation to free switching allowed by defendant to and between subscribers within the city of San Diego and the cities of El Cajon and Pacific Beach.

3. That there does not exist a community interest between the city of San Diego and the other communities involved in these proceedings requiring and justifying the continuance of unlimited free interexchange switching for subscribers between the cities of San Diego, El Cajon and Pacific Beach or requiring or justifying the restoration of unlimited free interexchange switching or the elimination of toll charges between said cities and other cities within the county of San Diego.

Basing its conclusions on the foregoing findings and on the other findings referred to in the opinion preceding this order;

*It is hereby ordered*, that defendant, The Pacific Telephone and Telegraph Company, shall on or before March 21, 1923, place in effect for interexchange service between the cities of San Diego, El Cajon and Pacific Beach the standard toll rates now in effect between other exchanges and toll points in San Diego County for similar service as those rates are now on file with the Railroad Commission and shall continue the same in effect until or unless changed by further order of this Commission; and

*It is hereby further ordered*, that on and after April 1, 1923, defendant, The Pacific Telephone and Telegraph Company, shall make effective and shall continue in effect until or unless changed by further order of this Commission, the schedules of rates for local exchange service heretofore filed with the Railroad Commission and as authorized by the Postmaster General of the United States during the period of federal control and operation of defendant's system but not heretofore made effective, for local exchange service within the cities of El Cajon and Pacific Beach; and

*It is hereby further ordered*, that except as to the matters hereinabove provided for, the complaints herein be and they are hereby dismissed.

The opinion and order herein are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of February, 1923.

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DECISION No. 11721.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE TWO MILLION SIX HUNDRED FIVE THOUSAND DOLLARS FACE AMOUNT OF ITS GENERAL AND REFUNDING MORTGAGE FIVE PER CENT TWENTY-FIVE-YEAR GOLD BONDS OF THE SERIES OF 1919.

Application No. 7519.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS GENERAL AND REFUNDING TWENTY-FIVE-YEAR FIVE PER CENT GOLD BONDS TO THE AMOUNT OF NINE MILLION FOUR HUNDRED EIGHT THOUSAND DOLLARS FACE VALUE.

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Application No. 8591.

Decided February 26, 1923.

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER IN APPLICATION No. 7519.  
FIRST SUPPLEMENTAL ORDER IN APPLICATION No. 8591.**

The Railroad Commission on January 26, 1923, by Decision No. 11572, in Application No. 7519 and by Decision No. 11565, in Application No. 8591, authorized Southern California Edison Company, among other things, to sell at not less than 90 per cent of their face value, plus accrued interest, \$10,000,000 of general and refunding mortgage 5 per cent twenty-five-year gold bonds of the series of 1919 and to use the proceeds to pay for extensions, additions and betterments to its plants and properties. Applicant now requests the Commission to modify such decisions, so as to permit applicant to sell at not less than 94 per cent of their face value, plus accrued interest, \$10,000,000 of 5½ per cent bonds in lieu of the 5 per cent bonds authorized by the two decisions.

The Commission has given consideration to applicant's request and believes it should be granted; therefore,

*It is hereby ordered*, that Decision No. 11572, dated January 26, 1923, and Decision No. 11565, dated January 26, 1923, be and they are hereby modified so as to permit Southern California Edison Company to sell

at not less than 94 per cent of their face value, plus accrued interest, \$10,000,000 of general and refunding mortgage  $5\frac{1}{2}$  per cent twenty-five-year bonds in lieu of the \$10,000,000 of 5 per cent bonds authorized by the said decisions.

*It is hereby further ordered*, that Decisions No. 11572, dated January 26, 1923, and No. 11565, dated January 26, 1923, shall remain in full force and effect except as modified by this supplemental order.

Dated at San Francisco, California, this twenty-sixth day of February, 1923.

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DECISION No. 11722.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, NORTHERN DIVISION, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE SERVICE, AS A COMMON CARRIER OF PASSENGERS AND EXPRESS MATTER, BETWEEN LOS ANGELES, CALIFORNIA, AND THE CALIFORNIA-NEVADA STATE LINE NORTH OF COLEVILLE, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8023.

IN THE MATTER OF THE APPLICATION OF GEORGE W. WILKINS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PASSENGER AND EXPRESS AUTOMOBILE STAGE SERVICE BETWEEN BISHOP AND CUNNINGHAM, CALIFORNIA, VIA MAMMOUTH AND ALL INTERMEDIATE POINTS.

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Application No. 8027.

Decided February 27, 1923.

AUTOMOBILE STAGE SERVICE—APPLICATION FOR THROUGH SERVICE CERTIFICATE—LOS ANGELES TO CALIFORNIA-NEVADA STATE LINE.—The Commission holds that the best interests of the Owens Valley and its future development require that the application to establish a through service paralleling existing railroad and stage routes be denied.

Certificate granted to George W. Wilkins to operate stage line between Bishop and Cunningham, or Mono Lake.

Warren E. Libby, for the applicant, Pickwick Stages, N. D., and protesting the application of George W. Wilkins.

McDonald and Thompson, by S. W. Thompson, for applicant, George W. Wilkins, and protesting the application of Pickwick Stages, N. D.

Frank B. Austin, J. E. Lyon, F. E. Watson and H. H. Gogarty, for Southern Pacific Company, protesting the application of Pickwick Stages, N. D.

E. T. Lucey, for The Atchison, Topeka and Santa Fe Railway Company, protesting the application of Pickwick Stages, N. D.

M. Thompson, for American Railway Express Company, protesting the application of Pickwick Stages, N. D.

W. H. Powell, for Packard Stage Line and for Anderson Stage Line.

H. W. Kidd, for Motor Transit Company.

Clyde R. Moody, for Original Stage Line.

T. G. Watterson, for Bishop Chamber of Commerce, protesting application of Pickwick Stages, N. D.

George B. Warren and Fred M. Hess, for Owens Valley Associated Chambers of Commerce.

Frank Scherrer, W. H. Powell and G. W. Miller, for Owens Valley Transportation Storage and Packing Company.

R. A. McCormick, for Yosemite National Park Company.

L. J. Mushett, for Nevada-California Auto Stage Company.

BY THE COMMISSION.

## OPINION.

Public hearings were held by Examiner Westover at Los Angeles and Independence upon the above entitled applications relating to automobile passenger and express service between Los Angeles and points in the upper Owens Valley.

Application of Pickwick Stages, No. 8023, as amended by leave during the hearing, requests authority to establish an automobile stage service as a common carrier of passengers and express between Los Angeles and the California-Nevada state line at a point north of Coleville, California, as a part of a route intended to be operated between Los Angeles, California, and Reno, Nevada, via Mono Lake, in connection with the Pickwick Company's present operations between Los Angeles, San Francisco and Portland. Applicant proposes to use modern large passenger stages with specially built bodies, such as those in use in its present operations, scheduled to leave Los Angeles at 7 a.m.; arriving at Bishop, 288 miles distant, at 5.15 p.m.; this service to be rendered daily; and to operate three times per week between Bishop and Reno; leaving Bishop at 7 a.m.; Bridgeport, 177 miles distant, at 11.30 a.m.; reaching Reno, 252 miles from Bishop, at 7 p.m. The southbound schedule provides for leaving and arriving at similar hours. The service above Bishop is made subject to road and weather conditions, and it is proposed to increase it as the requirements of traffic demand. The proposed fare, Los Angeles to Bishop, is \$15.65; while that of the Southern Pacific Company, from Los Angeles to Laws, the rail point nearest Bishop, a distance of 197 miles from Los Angeles and 4 miles from Bishop, is \$15.60.

The proposed route is practically that of the railroad most of the way between Los Angeles and Bishop, and lies through a desert country at the base of the high Sierras. The country is sparsely settled and hot and dusty, in the summer time especially.

The application of George W. Wilkins seeks authority to operate an automobile passenger and express service between Bishop and Cunningham, known also as Mono Lake, by which name it will be referred to hereinafter. The equipment proposed to be used consists of two fourteen-passenger Reo speed wagons and two seven-passenger Pierce-Arrow touring cars; and the schedule provides for three round trips per week. It is proposed to operate on a schedule connecting with stages of the Owens Valley Transportation, Storage and Packing Company at its northern terminal at Bishop, and to charge a fare of \$14 between Bishop and Mono Lake, a distance of 82 miles.

The common carriers now serving this territory are as follows: Southern Pacific Company, American Railway Express Company, operating over its rails; Owens Valley Transportation, Storage and



Packing Company, hereafter referred to as the Owens Valley Stage Line, operating passenger stage line between Owenyo and Bishop; and Gardnerville Transportation Company, operating passenger and freight service between Mono Lake and Bridgeport, besides other points between Farrington, California, and Minden, Nevada.

The Anderson Stage Line, operating between Mojave and Randsburg; Motor Transit Company, operating between Los Angeles and Saugus as part of its Bakersfield line; Original Stage Line, operating between Los Angeles and San Fernando; and The Atchison, Topeka and Santa Fe Railway Company, being satisfied by stipulations that their respective interests would not be affected, withdrew from the hearings and did not protest either application. The principal interest of the Packard Stage Line, in the hearing, was to procure suitable protection for its service between Los Angeles and Mojave.

The stipulations referred to which induced the withdrawal of the carriers above referred to were to the general effect that Pickwick Stages, Northern Division, Incorporated, in operating between Los Angeles and Mojave, would not seek herein to enlarge any rights it may now have by reason of its operation between Los Angeles and Santa Paula, to transport passengers between Los Angeles and Saugus and intermediate points, a portion of its proposed route now served by its Santa Paula line; that it would not take local passengers between Los Angeles and Mojave or intermediate points, except as it may now be authorized to do by virtue of its Santa Paula operative rights above referred to; but it does wish to carry passengers from points south of Mojave to points north of Mojave and vice versa.

Of the carriers now serving in this territory the Southern Pacific Company and the American Railway Express Company, operating over its rails, serve the entire territory between Los Angeles and Laws, the rail point for Bishop; but northeasterly from Laws its route is to the southeast of Mono Lake while the route of the proposed stage service of applicants lies to the northwest of Mono Lake. Its train schedule provides for leaving Los Angeles at 10 p.m., and arriving at Laws at 11.55 a.m. Its rail service between Los Angeles and Owenyo, 144 miles distant, is daily over broad-gauge roadbed, with a Pullman service, now three times weekly, but formerly daily. The service between Owenyo and Laws, and points beyond, is daily except Sunday; but north of Owenyo the road is narrow-gauge, and the service is rendered by mixed train, with no sleeper service. The rail station nearest the village of Mono Lake is Benton, 58 miles to the southeast. The railroad lies to the east of the principal towns in the valley, being about one mile from Lone Pine, 4 miles from Independence and 4 miles from Bishop. Bus fares between these towns and the nearest rail points are 25 cents, 50 cents and 75 cents, respectively.



The Owens Valley Stage line operates large motor stages between Lone Pine and Bishop on schedules designed to connect with the trains. The stage leaves Lone Pine at 9.00 a.m. after arrival of the Los Angeles train, due at Lone Pine railroad station at 8.36 a.m. and arrives at Bishop at 12.15 p.m.; returning, leaves Bishop at 1.30 p.m. in time to put passengers on the Los Angeles train southbound at 6.40 p.m.

Applicant Wilkins, if authorized, will run his stages to connect with the Owens Valley line at Bishop, giving service to Mono Lake.

Just what connection can be made by stage line operating between Mono Lake and Reno is not important for the reason that the testimony presented relates only to traffic conditions between Los Angeles and points near Mono Lake. There was no testimony concerning through traffic between Los Angeles and Reno, except that the Pickwick's ticket office at Los Angeles received many requests for information as to means for public travel to Reno.

We will, therefore, consider only the need for passenger and express service between Los Angeles and Mono Lake.

Passenger traffic between Los Angeles and points in upper Owens Valley appears to be of three classes: Summer vacationists and pleasure seekers, residents of the valley and those having business interests there, and transportation of labor to and from development works in the valley.

In the high Sierra to the west of the valley and in the vicinity of Mono Lake are many summer camps. Those engaged in the business of moving these campers to their camps testify that about 80 per cent of this class of travel arrives at Lone Pine, Independence and Bishop, the principal points of departure for the mountains, in private autos because of their desire to move from place to place in the mountains after arrival. They carry large quantities of camp equipment. The size and weight of this equipment, aside from groceries and supplies usually purchased locally, are estimated to be from 60 to 200 pounds in weight and from 30 to 50 cubic feet in bulk. The capacity of the baggage racks on Pickwick Stages is estimated at 90 cubic feet, but it is said that some equipment could be placed on running boards and fenders. On the other hand, those who do not wish to drive their own cars can use the sleeper service leaving Los Angeles at 10 p.m., arriving next morning at the nearest rail point at Lone Pine at 8.36 a.m., Independence at 9.45 a.m., and Laws at 11.55 a.m., those destined to Independence and Bishop being prepared to transfer at Owenyo to the narrow-gauge if they go by rail, or at Lone Pine if they prefer to proceed from there by stage. By the proposed Pickwick service the campers would arrive at Lone Pine at 3.25 p.m., Independence 3.54 p.m. and Bishop at 5.15 p.m. Whether such passengers prefer to arrive by train in the morning and be met at the railroad with pack animals and

travel directly toward their selected camping sites, or be met by autos and conveyed to the headquarters of the packing organization off the railroad and transported to base camps by pack animals, or whether they would come by stage, arriving in the afternoon, staying over night at Lone Pine, Independence or Bishop, starting for their camps the following morning, seems to be almost wholly a matter of individual preference. We are satisfied, however, that only a small part of such travel would use either stage or train.

The travel by the residents of the valley or those having business interests there, is principally between valley points and Los Angeles. The principal objection to the Southern Pacific service for this traffic is that there is a wait at Mojave in the early morning hours of an hour and ten minutes north bound and three hours and fifty-five minutes south bound, the Owens Valley cars being switched at Mojave to and from Trains Nos. 8 and 109, operated between Los Angeles and San Francisco through the San Joaquin Valley. This complaint, of course, does not apply to those using the sleeper service. There is also complaint that the trains are hot and dusty. The principal complaints, however, are of the poor equipment, rough roadbed and irregularity of the trains on the narrow-gauge line north from Owenyo. It appears that most of the travel between Owenyo and Bishop is handled by the Owens Valley Stage Line because of this.

Concerning transportation of labor, it appears that there is a large irrigation project being constructed near Mono Lake which is to be finished in about two years; works for Walker River Irrigation District northeast of Bridgeport and power development by the city of Los Angeles north of Bishop.

In connection with the city power development at Owens Gorge, 35 miles north of Bishop, about 150 men are used during the summer besides about 75 in the maintenance and operation work in the valley permanently, with the prospect of about doubling the maintenance and operation force during the year and using a total of some 300 men during next summer. The turnover on the transient summer labor will amount to about 50 men per month but there is very little turnover in the maintenance and operation force. These are the only specific figures on labor furnished, although there is an unsupported estimate in the record that some 1500 to 2000 transient laborers are engaged in the public works referred to during the summer season. One of the principal considerations in the transportation of labor is an arrangement by which laborers starting from Los Angeles will arrive at destination. Therefore, the management of some of the development enterprises use their own cars to transport labor back and forth. Several of those requiring such labor expressed the opinion that arrival at

destination could be made about as certain by the use of rail plus stage service, as by using through stage service.

The population of Inyo county by the last census was 7031, and Mono county 960; and of the towns along the route, Mono Lake 16, Inyo-Kern 132, Lone Pine 262, Little Lake 31, Independence 407, Big Pine 689, Bishop 1304, Laws 84, and Round Valley, northwest of Bishop, 114.

Apparently vacationists will prefer to drive their own cars; business travel will prefer to save the two days consumed by stage travel each round trip, and that transportation of labor can be as well handled by present train and stage service.

It was stipulated that rail service between Los Angeles and Owenyo on the broad-gauge is entirely satisfactory; that there is a public need for passenger and express stage service to be operated between Bishop and Mono Lake, and that the service of the Owens Valley line between Lone Pine and Bishop is adequate, and the management is ready, willing and able to increase it to meet demands of traffic. The service of the American Railway Express Company was shown to be satisfactory.

The position of the Bishop Chamber of Commerce, the Associated Chambers of Commerce of Owens Valley, Alfalfa Growers Association and other civic organizations appears to be that there should be no authority granted to operate an additional stage line between Bishop and Los Angeles; and several witnesses who expressed a personal preference to have a through stage line between Los Angeles, Bishop and Mono Lake, for reasons expressed, took the position that the traffic interests of the valley would be best served by protecting the present rail and stage service and granting authority to operate passenger stage service between Mono Lake and Bishop only.

After most careful consideration we have reached the conclusion that the best interests of the valley and its future development require that the application to establish a through stage service should be denied, and the application to establish a stage service between Bishop and Mono Lake should be granted.

#### ORDER.

Public hearings having been held upon above entitled applications, both matters being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity do not require Pickwick Stages, Northern Division, to operate passenger and express stage service between Los Angeles and the California-Nevada state line, north of Coleville, California.

*It is hereby ordered*, that Application No. 8023 of said Pickwick Stages, Northern Division, be and it is hereby denied.

The Railroad Commission hereby declares that public convenience and necessity require George W. Wilkins to operate automotive stages

for the common carriage of passengers and express between Bishop and Cunningham, known also as Mono Lake, serving Rock Creek Station, Eaton's Ranch, Sumner's Ranch, Mammoth Camp and Cain's Ranch as intermediate points; said service to be rendered at least three round trips per week between May 31st and October 1st in each year, and as much longer each season to any point upon said route as weather, road and traffic conditions will permit.

The above authority is granted upon the following conditions:

1. The operative rights and privilege hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

3. *It is hereby ordered*, that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operations is extended by formal supplemental order herein.

4. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this twenty-seventh day of February, 1923.

## DECISION No. 11723.

MURRIETTA MINERAL HOT SPRINGS AUTO STAGE LINE,  
A CORPORATION,

vs.

PICKWICK STAGES, INCORPORATED, A. L. HAYES, PRESIDENT,  
SOUTHERN DIVISION.

Case No. 1797.

Decided February 27, 1923.

*Clifford A. Rohc, of Rohc, Yakey and Devin, for Complainant.*  
*Warren E. Libby, for Defendant.*

BY THE COMMISSION.

## OPINION.

The pleadings in the above entitled case put in issue the question whether defendant and its predecessors prior to the year 1922 rendered regular passenger service to and from Murrietta Mineral Hot Springs, whether at times it failed to render such service and whether public necessity requires the service of defendant.

Public hearings in the matter were held by Examiner Westover at Los Angeles.

It appears from the testimony that defendant, a corporation, secured from this Commission operative rights by reason of a certificate of public convenience and necessity having been granted by Decision No. 5345 dated April 29, 1918, and Decision No. 6452 dated June 25, 1919, on Application No. 3663.

Murrietta Hot Springs was an intermediate point on the route granted by the certificate of public convenience and necessity. Defendant corporation did not actually begin operation under this certificate until November 6, 1921, and the testimony regarding the alleged service was therefore properly limited to incidents occurring after such time.

It appears from the testimony herein that the service rendered by defendant since its commencement of operation under the certificate rights hereinabove referred to, has been continuous and reasonably satisfactory being rendered by regular equipment together with such auxiliary equipment as was employed from time to time when necessity therefor arose by reason of traffic demands. It therefore appears that any cancellation of reservations on stages operated by defendant leaving Murrietta Hot Springs was due to conditions beyond the control of defendant and that complaint, as to the nonoperation of schedules within the time covered by the scope of this inquiry, was occasioned by weather and road conditions which justified the elimination of the few scheduled runs regarding which testimony appears in the record.

From a careful review of all the evidence in this proceeding it is apparent to the Commission that the complaint was primarily directed to conditions existing prior to the commencement of operation by defendant herein under the authority contained by decisions herein-above mentioned, and that inasmuch as the operations were conducted by defendant corporation after the issuance of the certificate of public convenience and necessity as required by statutory law and Murrietta Hot Springs being an intermediate point upon the route authorized by the Commission's decisions, no consideration in this proceeding can be given to acts occurring prior to the operation of the route by defendant corporation. The previous operation was by the Pickwick Stages, a copartnership, and such operating entity discontinued its service by authority of the Commission at the time defendant corporation commenced operation under the authority of the Commission.

**ORDER.**

Public hearings having been held on the above entitled complaint, the matter having been duly submitted and the Commission being now fully advised and basing its order on the finding of fact appearing in the above entitled opinion;

*It is hereby ordered*, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-seventh day of February, 1923.

DECISION No. 11724.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE THREE MILLION SIX HUNDRED EIGHTY-EIGHT THOUSAND DOLLARS FACE VALUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS AND TO DEPOSIT AND PLEDGE SAID BONDS WITH THE MERCANTILE TRUST COMPANY (SAN FRANCISCO) UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF APPLICANT'S FIRST AND REFUNDING MORTGAGE DATED DECEMBER 1, 1920.

Application No. 8624.

Decided February 27, 1923.

*C. P. Cutten*, for Applicant.

MARTIN, *Commissioner*.

**OPINION.**

In this application, Pacific Gas and Electric Company asks permission to issue \$3,688,000 of its general and refunding mortgage 5 per cent gold bonds, due January 1, 1942, and to deposit and pledge them with Mercantile Trust Company (San Francisco) under and pursuant to the terms and provisions of its first and refunding mortgage of December 1, 1920.

By Decision No. 8724, dated March 10, 1921, in Application No. 6387, the Commission authorized Pacific Gas and Electric Company to execute a first and refunding mortgage. In this mortgage, the company agreed that it will not issue and sell any additional bonds, which it may have certified under its general and refunding mortgage, but that all of such bonds after certification, will be deposited and pledged with the trustee under the first and refunding mortgage, or exchange for underlying bonds pursuant to the terms of the general and refunding mortgage.

The company reports that from July 1, 1922, to November 30, 1922, it expended for betterments, improvements and extensions of, and additions to, its properties, the sum of \$4,097,925.36, and that by reason of such expenditures, it can call upon the trustee under its general and refunding mortgage to authenticate and deliver in excess of \$3,688,000 of bonds. The expenditures made by applicant for construction purposes are reported in detail in statements on file with the Commission.

The general and refunding mortgage bonds which applicant deposits with the trustee under the first and refunding mortgage will be held by the trustee until the general and refunding mortgage is discharged of record, at which time they will be canceled. None of the bonds covered by this petition will be sold to the public.

I herewith submit the following form of order:

#### ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue and deposit bonds, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the issue and deposit of the bonds is in accordance with the terms and provisions of section 52 of the Public Utilities Act;

*It is hereby ordered*, that Pacific Gas and Electric Company be and it is hereby authorized to issue and deposit with the Mercantile Trust Company (San Francisco), trustee under its first and refunding mortgage, \$3,688,000 of its general and refunding mortgage five per cent gold bonds due January 1, 1942, for the purpose of securing, in part, the payment of bonds issued and sold under said first and refunding mortgage, such general and refunding mortgage bonds to be deposited under and pursuant to the provisions of the first and refunding mortgage dated December 1, 1920.

The authority herein granted is subject to the following conditions:

(1) Pacific Gas and Electric Company shall file with the Railroad Commission a report or reports as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.



(2) The authority herein granted will become effective upon the date hereof and will expire on July 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1923.

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DECISION No. 11725.

IN THE MATTER OF THE APPLICATION OF J. H. COTTRELL FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AND LIGHT EXPRESS SERVICE BETWEEN THE CITY OF SAN DIEGO AND TECATE, IN THE STATE OF CALIFORNIA, AND INTERMEDIATE POINTS.

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Application No. 8160 .  
Decided February 27, 1923.

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*H. E. Brunelle* and *B. F. Bennett*, for Applicant.  
*Warren E. Libby*, for White Star Auto Stages, Pickwick Stages, Inc., and United Stages, Inc., Protestants.

BY THE COMMISSION.

OPINION ON REHEARING.

In our Decision No. 11026, of September 26, 1922, the applicant herein was granted a certificate of public convenience to operate an automobile stage line between San Diego and Tecate, via Jamul, Dulzura, Barrett and Potrero, which decision should be referred to for a complete discussion of the issues involved. The territory in question lies along the route of the White Star Auto Stages, Pickwick Stages, Inc., and United States, Inc., between San Diego and El Centro, which lines protested the granting of the application. Because of the failure of the applicant to show that public convenience and necessity required the operation of the additional service, the certificate then granted permitted him to handle only through passengers between San Diego and Tecate, no service at the intermediate points being permitted. Following that decision the Commission was in receipt of numerous letters tending to show that the service furnished by the three stage lines mentioned at the intermediate points did not meet the requirements of the local traffic. The case was thereupon set for further hearing before Examiner Eddy at San Diego on Saturday, January 27, 1923.

Several witnesses testified as to the needs of the communities mentioned for a service of the character which the applicant desires to render and a large number of persons were also present in the courtroom, prepared to testify to the same general effect. Mr. Cottrell handles the United States mails between San Diego and Tecate, and



uses in this service either a Chevrolet four-passenger or a Dodge five-passenger car. He leaves San Diego at 7.20 in the morning, and is scheduled to reach Tecate some time before noon; on the return trip he is scheduled to leave Tecate at noon and arrive at San Diego at 3.30 p.m. The record indicates, however, that this schedule is not always closely adhered to. For a good many years the residents of this intermediate territory have come to rely upon the mail stage for transportation from their homes to San Diego. The stage stops for a few minutes at each post office along the route to pick up the mail and will also stop at any roadside point to take on passengers. By leaving a note in the mail box stating that they wish transportation to San Diego on any given day, a seat is held on the mail stage. The stages of the through lines are frequently filled when leaving El Centro, and it is not always possible to secure transportation from an intermediate point to San Diego on any given stage. This necessitates waiting along the road or at one of the small communities until seats are available in the through stages; some difficulty apparently has also been experienced in getting the through stages to stop at the local points named or at convenient roadside points. Personal experiences and the relation of similar experiences by neighbors have caused the residents of these communities to depend largely on the mail stage for transportation into San Diego, and without attempting to secure transportation upon the through stages. On the return trip, however, the residents along the route take advantage of the service afforded by the through stages, and are shown to experience but little difficulty in securing transportation on any desired stage.

The applicant was unable to give any reasonable estimate as to the number of passengers that would be handled by his stage were the certificate granted. It appears, however, that the number of passengers would be very limited, and could easily be accommodated in the car now being used for the transportation of the mail. In view of the evidence adduced at the further hearing, our order in this proceeding will be amended so as to permit the applicant to transport passengers between San Diego and Tecate, via the route designated, serving the intermediate points named. The certificate, however, will be so limited as to confine the passenger traffic to such passengers as may be carried on the single stage necessary for and actually used at the present time on any given day in the transportation of the United States mails. No other or additional equipment may be operated on this route without securing in advance our specific approval.

#### ORDER.

A public hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by J. H. Cottrell of an automobile stage line as a common carrier of passengers and express between San Diego and Tecate, serving the intermediate points of Spring Valley, Jamul, Dulzura, Barrett and Potrero; and

*It is hereby ordered*, that a certificate of public convenience and necessity be, and the same hereby is granted, subject to the following conditions and restrictions:

1. The transportation of freight between San Diego and Tecate and intermediate points shall be confined solely to packages of which no single shipment from one consignor to one consignee shall weigh in excess of fifty pounds, the total weight of such shipments in any one day not to exceed 250 pounds with the exception of milk and cream, of which commodity the total shipments in any one day shall not weigh in excess of 250 pounds.

2. This certificate authorizes the transportation of passengers and express matter for compensation between the points hereinabove mentioned only on the single stage necessary for and actually used at the present time in the transportation of United States mails; no other or additional equipment may be operated under this certificate without the written authorization of the Railroad Commission having first been secured.

3. Applicant herein shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof; such tariff of rates and time schedules to be identical with Exhibits "A" and "B" attached to the original application of applicant in the above numbered proceeding; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

*It is hereby further ordered*, that Decisions Nos. 11026 and 11058 in the above entitled application be and the same hereby are revoked and set aside.

Dated at San Francisco, California, this twenty-seventh day of February, 1923.

## DECISION No. 11727.

IN THE MATTER OF THE APPLICATION OF LATON WATER COMPANY,  
A CORPORATION, FOR AN ORDER ESTABLISHING RATES IN THE  
TOWN OF LATON, COUNTY OF FRESNO, STATE OF CALIFORNIA.

Application No. 8231.

Decided February 27, 1923.

*H. C. Watson*, for Applicant.

BY THE COMMISSION.

## OPINION.

The Laton Water Company, applicant herein, engaged in the business of supplying water for domestic and commercial purposes to approximately 62 consumers in Laton, Fresno County, asks in effect that the Railroad Commission establish the physical value of applicant's property and also establish a schedule of rates which will provide a proper revenue to applicant and at the same time not be burdensome on the consumers.

The plant consists of a 200-foot well, one 2-inch centrifugal pump, belt-driven, by a 5 horsepower motor, the necessary storage facilities and approximately 7300 feet of distribution mains, from 1½ inches to 4 inches in diameter.

The rates in effect at present are: flat rates varying from \$1.15 to \$4 for domestic and commercial service; meter rates, first 4000 gallons \$1.25, each additional 1000 gallons 12½ cents.

A public hearing in the matter was held at Laton, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and be heard.

Applicant did not present an appraisal of its property, but accepted the recommendations of the Commission's engineer as a rate base.

Mr. D. H. Harroun, one of the Commission's hydraulic engineers, submitted a report of an investigation of the system wherein the estimated original cost was shown as \$5,881, a replacement annuity of \$98, computed by the 6 per cent sinking fund method, and an estimate of the reasonable annual maintenance and operating expense amounting to \$1,084.

The revenues received from the sale of water for the year 1922 were \$1,533, and no material increase in water sales is expected in the immediate future. From the foregoing it is apparent that applicant is entitled to an increased revenue.

The schedule of rates fixed in the accompanying order is designed to yield a sum sufficient to defray all reasonable cost of operation and maintenance, provide a proper replacement annuity and a fair return upon the used and useful property devoted to the public service.

**ORDER.**

The Laton Water Company having made application for the establishment and adjustment of rates, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the Laton Water Company for water delivered to its consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that Laton Water Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers in Laton, such rates to be effective for all service rendered subsequent to March 31, 1923:

FLAT RATES.	Per month
Service connection only, two adults or less-----	\$1 25
For each additional adult-----	15
For each bath tub-----	25
For each patent toilet-----	25
For each horse-----	25
For each cow-----	25
Lodges-----	1 00
Offices-----	1 00
Stores-----	2 00
Store with toilet-----	2 25
Drug stores-----	2 50
Restaurants (small)-----	2 50
Restaurant, lunch counter and barber shop-----	4 00
Irrigation of lawns, gardens, etc., per 100 square yards actually irrigated----	008
Fire hydrants, each-----	2 00

All other service at measured rate. Meters may be installed at the option of consumers or the utility.

**METER RATES.****Minimum monthly charges:**

For $\frac{3}{4}$ and $\frac{1}{2}$ -inch meters-----	\$1 20
For 1-inch meters-----	2 00
For 1 $\frac{1}{2}$ -inch meters-----	2 50
For 2-inch meters-----	3 00

**Monthly meter rates:**

From 0 to 400 cubic feet, per 100 cubic feet-----	\$0 30
From 400 to 1500 cubic feet, per 100 cubic feet-----	25
Over 1500 cubic feet, per 100 cubic feet-----	15

*It is hereby further ordered*, that Laton Water Company be and the same is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-seventh day of February, 1923.

10-24801

## DECISION No. 11734.

IN THE MATTER OF THE INVESTIGATION INTO THE EFFICIENCY,  
PRODUCTION, TRANSMISSION, DISTRIBUTION AND USE OF GAS  
BY UTILITIES WITHIN THE STATE OF CALIFORNIA. INVESTI-  
GATION INSTITUTED ON THE COMMISSION'S OWN MOTION.

Case No. 1410.

Decided March 1, 1923.

*C. P. Cullen*, for Pacific Gas and Electric Company.  
*R. E. Easton*, for Santa Maria Gas Company.  
*F. W. Hunter*, for Central Counties Gas Company.  
*J. B. Kelley*, for Western States Gas and Electric Company.  
*C. A. Luckenback*, for Los Angeles Gas and Electric Corporation.  
*J. F. Pollard*, for Coast Valleys Gas and Electric Company.  
*T. J. Reynolds* and *F. J. Schafer*, for Southern California Gas Company.  
*T. J. Reynolds*, for Midway Gas Company.  
*G. W. Wiley*, for Riverbend Gas and Water Company.

*WHITTLESEY, Commissioner.*

## OPINION.

This is an investigation on the Commission's own motion into the efficiency of production, distribution and use of gas by the public utilities in the State of California, with a view to determining the best quality of gas to be served to the public.

On August 1, 1919, General Order No. 58 was approved, effective September 1, 1919, providing therein standards for gas service in the State of California. Since that time the Commission's gas engineers have carried on routine inspections of gas service throughout the state with reference to the enforcement of the general order. Shortly after the effective date of General Order No. 58 an investigation was instituted as a result of the contention on the part of certain utilities that certain of the standards prescribed in General Order No. 58 were not the most economical. A special committee, consisting of engineers of the Commission and certain engineers of the public utilities, was organized and known as the Joint Committee on Efficiency and Economy of Gas of the Railroad Commission of the State of California. Exhaustive tests were conducted by this committee and under date of September 15, 1922, recommendations were made for certain modifications and revisions in the standard of gas quality to be supplied. Investigations made by the Commission's engineers in connection with the enforcement of General Order No. 58 have indicated the advisability of certain changes and modifications in the original general order. As a result of these recommendations and the recommendations of the Joint Committee on Gas Efficiency, this Commission submitted to each of the gas utilities of the state its proposed revision of General Order No. 58. The various gas utilities were ordered to appear on February 6, 1923, and show cause, if any they had, why the revised order should not be

approved and made effective as the new standard for gas service in the State of California. At the hearing in this proceeding certain minor changes were suggested in the proposed general order and such of these as it appears advisable have been made in the order herein made effective.

**ORDER.**

The Commission having prepared a revision of its General Order No. 58, specifying standards for gas service in the State of California, a hearing having been held and the matter submitted:

The Railroad Commission hereby finds as a fact that the rules specifying standards for gas service set forth in its General Order No. 58 approved August 1, 1919, should be modified as set forth in its General Order No. 58 Revised, which revised standards are found to be just and reasonable. Basing its order on the above finding of fact,

*It is hereby ordered, that:*

1. On and after April 1, 1923, the rules specifying standards for gas service as set forth in the Commission's General Order No. 58 as approved August 1, 1919, are rescinded in so far as they differ from the rules set forth in General Order No. 58 Revised, herein approved, except as provided in section "3" hereof.

2. General Order No. 58 Revised is hereby approved and made effective April 1, 1923.

3. No gas utility shall reduce the heat content of its product from the present 570 British thermal unit standard now in effect to that standard specified in General Order No. 58 Revised, until such a time as it is prepared to base its determinations of heat content upon tests of an average sample as provided in General Order No. 58 Revised and shall have received the informal approval of same from the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of March, 1923.

NOTE—Wherever the term “artificial gas” appears herein, the term “manufactured gas” should be substituted.

GENERAL ORDER No. 58.

REVISED

Railroad Commission of the State of California.

STANDARDS FOR GAS SERVICE IN THE STATE OF CALIFORNIA.

(Original Order Approved August 1, 1919. Effective September 1, 1919.)  
(Revised Order Approved March 1, 1923. Effective April 1, 1923.)

1. Application of Rules.

The following rules shall apply to any person, firm or corporation now or hereafter engaged as a public utility in the business of furnishing manufactured gas, natural gas, or any mixture of manufactured gas and natural gas for domestic, commercial, industrial or other purposes within the State of California where gas service is subject to the jurisdiction of the Railroad Commission of the State of California.

2. Definitions.

(a) The word “utility” and the term “gas utility” as used in these rules should be construed to mean any person, firm or corporation engaged as a public utility in producing, transmitting, distributing or furnishing manufactured gas, natural gas or mixed gas for domestic, commercial, industrial or other purposes.

(b) The word “Commission” as used in these rules shall be construed to mean the Railroad Commission of the State of California.

(c) The word “consumer” as used in these rules shall be construed to mean any person, firm or corporation supplied with gas by any gas utility, or which may be entitled or permitted to use for compensation any of the facilities of any gas utility.

(d) The word “gas” as used in these rules shall, unless otherwise specifically designated, be construed to mean manufactured gas, natural gas, or any mixed gas produced, transmitted, distributed or furnished by any gas utility.

(e) The terms “manufactured gas” and “artificial gas” used in these rules shall be construed to mean any gas produced artificially by any process in which the gas is delivered from the generating or producing equipment into the transmission or distribution system without the addition of any substance which tends to increase or decrease the heating value or specific gravity of the product as delivered to consumers.

(f) The term “natural gas” as used in these rules shall be construed to mean any gas existing in its natural state as it comes from the well or from oil separating or gasoline extraction apparatus located at or near the point of production.

(g) The term "mixed gas" as used in these rules shall be construed to mean any combination of two or more gases, of materially different character or chemical composition, combined outside of the generator, producer or well, separator or extraction plant, or any mixture involving the use of either manufactured or natural gas in combination with any substance which tends to increase or decrease the total heating value or specific gravity of the initial product.

(h) The term "cubic foot" of gas as used in these rules shall, where the term is used to indicate the measurement of gas supplied to any consumer, be construed to be the amount of gas which occupies a volume of one cubic foot at the average temperature and pressure existing in such consumer's meter where installed. When the gas itself is to be tested under these rules, a cubic foot of gas shall be taken to be that amount of gas which occupies the volume of one cubic foot when saturated with water vapor, and at the temperature of sixty degrees Fahrenheit and under a pressure of thirty inches of mercury.

### 3. Operating Schedule.

Where gas service is not rendered continuously or is subject to discontinuance during certain periods in favor of preferred classes of consumers, the utility shall provide specific rules and regulations subject to the approval of the Commission covering such service and file with the Commission copies of all contracts deviating from any rule thus established.

### 4. System Maps and Records.

(a) Each gas utility shall keep on file with the Commission a map of the territory which it holds itself out to serve.

(b) A suitable map shall be kept on file in each division or district office, which map shall at all times show the size, character and location of each street main, district regulator, street valve and drip, and when practicable, each service connection in the division or district supplied.

(c) In each division or district office, full and complete records shall be kept of all main pipe line and service extensions, replacements and abandonments, together with such other information relative to the distribution plant as may be necessary to enable the local representative to promptly and accurately advise prospective consumers, and others entitled to inquire, the extent of the territory served by the utility.

(d) Each gas generating or producing plant and each compressing or boosting station shall be provided with an accurate ground plan drawn to a suitable scale, showing the entire layout of the plant or station, the location, size and character of each piece of plant equipment, all pipe lines and connections, valve pits and other facilities used in connection with the production or delivery of gas.



**5. Record of Interruptions.**

(a) Any gas utility contemplating causing an interruption to its service on its entire system or in any major district thereof shall first submit its plans to the Commission for approval.

(b) Each gas utility shall keep a record of all interruptions to service on its entire system, or in major divisions or operating districts thereof, including a statement of the time, duration and cause, if known, of the interruption, and any such interruption of over two (2) hours duration shall be reported to the Commission immediately after its occurrence.

**6. Station Records.**

(a) Each gas utility shall keep a record of the time of starting up and shutting down of the boosting or compressing equipment and a record of the pressures maintained on each main leading from the generating or producing plant or from any boosting or compressing station. Such record may be kept in the form of pressure gauge charts.

(b) Each gas utility shall keep accurate record of the operation of each generating or producing plant as follows:

- (1) The amount of gas manufactured each day reduced to standard conditions of 60° Fahrenheit and 30 inches of mercury.
- (2) The amount of gas sent out each day reduced to standard conditions of 60° Fahrenheit and 30 inches of mercury.
- (3) The amount of gas-oil or other raw material used each day in producing artificial gas.
- (4) The amount of oil or other fuel used each day in maintaining heat in gas generators or producers.
- (5) The amount of fuel-oil or natural gas used each month under steam producers together with an estimate of the amount of lampblack and tar utilized.
- (6) The character of, and an estimate of the quantity of the by-products or residuals produced, utilized, sold and remaining on hand each month.

**7. Unsafe Equipment.**

(a) Whenever any equipment or facilities, the failure of which would involve life or property hazard, are removed from service for any reason, they must be thoroughly inspected and tested before again placed in service. No equipment or facilities shall be placed in service or continued in service which have for any reason become detrimental to service, dangerous or liable to cause injury to persons or damage to property.

(b) Each gas utility shall inspect its gas properties in such manner and with such frequency as may be necessary in order that the plant, equipment and facilities may at all times be maintained in proper condition for use in rendering safe, proper and adequate service. A record shall be kept by each gas utility of conditions found upon inspection, or otherwise reported or ascertained, involving life or property hazard or interference with service, which record shall describe the location and circumstances of each apparently hazardous condition or possible service

interference condition found or reported, and a statement showing the date and general character of its correction.

**8. Testing Equipment and Facilities.**

(a) Each gas utility shall, unless otherwise specifically provided in these rules, provide such laboratory equipment, meter testing equipment, and other testing facilities for each gas generating or producing plant operated, as may be necessary to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be of a type and form approved by the Commission, and it shall be available at all times for the inspection or use of any authorized representative of the Commission.

(b) Each gas utility shall make such tests as are prescribed under these rules with such frequency and in such manner, and at such places as is herein provided, or as may be approved or ordered by the Commission.

(c) Each gas utility shall file with the Commission a detailed statement showing the location of each laboratory, meter-testing shop and service inspection station owned, controlled or operated by the utility, together with a full and complete description of each and every testing or standardizing instrument or apparatus maintained therein. Any change or additions to testing instruments and apparatus, or abandonment of testing instruments or apparatus shall be reported to the Commission within ten days after the change has become effective.

**9. Heating Value Standard for Artificial and Mixed Gas.**

(a) Each gas utility supplying artificial or mixed gas for domestic or commercial purposes either directly or through a second utility shall establish and maintain, with the approval of the Commission, a standard heating value for its product. The monthly average heating value of the gas measured in the manner and place as hereinafter provided shall meet the requirements of the standard established.

(b) Each gas utility supplying artificial or mixed gas shall file with the Commission as a part of its schedule of rates, rules and regulations, a statement of the standard heating value of the gas supplied by it,

(a) At the outlet of its plant at low pressure delivery.

(b) To its consumers in each district as may be ruled a separate distribution system by the Commission.

A similar statement shall be inserted in its schedule of rates, rules and regulations kept open to public inspection at each office or location where applications for service are received.

(c) No standard of heating value established by any gas utility as herein provided shall be changed in any way by such utility except with specific written authority from the Commission.

**10. Heating Value Tests.**

(a) Each utility supplying artificial or mixed gas and maintaining a testing station at the generating or producing plant shall determine daily the heating value of the gas leaving the plant. This determination shall be a weighted average of the quality of gas sent out each day obtained either by averaging a series of tests taken at intervals determined by the rate of send-out in a manner approved by the Commission or by a test made upon an average proportional and continuous sample taken and held by a device approved by the Commission.

(b) Each utility supplying artificial or mixed gas and maintaining a testing station at or near the center of distribution shall determine the heating value of the gas being delivered, on at least six days per week in the manner prescribed above.

(c) Each gas utility supplying artificial or mixed gas and maintaining a testing station shall determine the heating value of the gas in its mains at least three times each day at intervals of not less than three and a half ( $3\frac{1}{2}$ ) hours, unless in the opinion of the Commission more frequent determinations should be made in which event determinations shall be made in the manner and at such times as may be approved by the Commission.

**11. Monthly Average Heating Value.**

In order to arrive at the monthly average total heating value of gas, the results of all continuous sample tests of total heating value made during any calendar month as herein provided, in Section 10, shall be averaged and the resulting figure shall be taken as the monthly average; provided, that where two or more such tests are made on any one day, the average value only, of all such tests shall be taken as the heating value on such day in determining the monthly average.

**12. Minimum Average Heating Value.**

(a) Unless specifically permitted in writing by the Commission, no gas utility supplying manufactured gas for domestic or commercial purposes shall deliver from its generating works to its distribution or transmission system a gas which, when measured under standard conditions, shall have a monthly average total heating value of less than five hundred and fifty (550) British thermal units per cubic foot.

(b) The minimum average heating value of artificial or mixed gas delivered by any gas utility to its consumers in any district as may be ruled a separate distribution system by the Commission shall be such as to meet the approval of the Commission; provided that in the case of low pressure and intermediate high pressure distribution systems, supplied directly from a generating plant, the minimum monthly average heating value, as measured at or near the center of distribution, shall not be less than five hundred and forty (540) British thermal

units per cubic foot unless specifically permitted in writing by the Commission.

**13. Daily Variations In Heating Value.**

The maximum variation from the standard of total average heating value of manufactured gas established, as herein provided, shall at no time exceed twenty-five (25) British thermal units per cubic foot above or below the standard.

**14. Calorimeter Equipment.**

Each gas utility supplying artificial or mixed gas shall provide and maintain testing stations, equipped with a calorimeter of a type approved by the Commission, and all necessary accessories therefor as follows:

- (a) One testing station at each gas generating or mixing plant supplying communities where the annual sales equal or exceed fifteen million (15,000,000) cubic feet; provided that such testing station may be installed at a point near the center of distribution, subject to the approval of the Commission.
- (b) An additional testing station at a point near the center of distribution approved by the Commission in communities where the annual sales equal or exceed one hundred million (100,000,000) cubic feet.
- (c) A gas utility distributing in any district or community artificial or mixed gas purchased from a second utility shall be considered an artificial or mixed gas utility and shall install testing stations in accordance with these rules.

**15. Heating Value of Gas Delivered to Consumers.**

Each gas utility supplying artificial or mixed gas, whose operations involve compression or other processes tending to affect the heat content of all or any portion of its gas after the gas has been delivered from the generating plant shall maintain such equipment and make such tests as may be prescribed by the Commission, to determine the heating value of such gas as delivered to consumers in each district as may be ruled a separate distributing system by the Commission.

**16. Heating Value of Natural Gas.**

(a) Each gas utility supplying natural gas for domestic or commercial purposes shall make tests with such frequency as may be prescribed by the Commission and keep a permanent chronological record of these tests of total heating value of the natural gas received or delivered to it from each separate source or transmission line; provided that if heating value determinations of the same gas are satisfactorily made by another utility these determinations may be used for the purpose of the above record upon written approval of the Commission.

(b) A gas utility supplying any district or community with a mixture of natural gases of widely differing heating value, obtained from two or more sources, and where the annual sales equal or exceed one hundred million (100,000,000) cubic feet, shall establish a testing station near the center of distribution of each such district or community, and shall

make at least three determinations per week of the total heating value of the gas delivered to consumers.

(c) Each gas utility supplying natural gas for domestic, commercial or industrial purposes shall file with the Commission, as a part of its schedule of rates, rules and regulations, the average total heating value of the natural gas delivered to it from each source or transmission line and also the average total heating value of the natural gas or mixture of natural gases sold by it in each district or community served.

#### 17. Heating Value Records.

Each gas utility making heating value determinations as herein provided, shall adopt, subject to the approval of the Commission, a standard form for recording the data and results of each such test. Each determination of heating value shall be recorded upon the form adopted for that purpose and such forms shall be retained as a chronological record at the station where made for a period of not less than two years.

#### 18. Purity of Gas.

(a) *Hydrogen Sulphide.* No gas supplied by any gas utility for domestic or commercial purposes in this state shall contain more than a trace of hydrogen sulphide. The gas shall be considered not to contain more than a trace of hydrogen sulphide if a strip of white filter paper moistened with a solution containing 5 per cent by weight of lead acetate is not distinctly darker than a second paper freshly moistened with the same solution after the first paper has been exposed to the gas for one minute in an apparatus of approved form through which the gas is flowing at a rate of approximately five cubic feet per hour, the gas not impinging directly from a jet upon the test paper.

(b) *Total Sulphur and Ammonia.* No gas supplied by any gas utility for domestic or commercial purposes shall contain more than thirty (30) grains of total sulphur, and more than five (5) grains of ammonia in each one hundred (100) cubic feet.

(c) *Test of Gas Purity.* Each gas utility supplying artificial gas for domestic or commercial purposes shall make daily tests of the gas leaving its holders, or at the center of distribution for the presence of hydrogen sulphide in the manner above specified. Each gas generating or producing plant having an annual output in excess of one hundred million (100,000,000) cubic feet of gas shall be equipped with, and shall maintain, such apparatus and facilities as are necessary for the determination of total sulphur and ammonia in gas, and each utility operating such a plant shall make tests weekly or as much oftener as may be found necessary, and keep a continuous chronological record of the amount of total sulphur and ammonia in the gas distributed by it. The records herein provided shall be kept at the station where made;

provided, however, that any such utility supplying only water gas or oil gas shall not be required to provide apparatus for or make determinations of the amount of ammonia in gas.

(d) In the case of those utilities supplying a mixed gas these standards of gas purity shall apply to the artificial gas prior to mixture.

**19. Standard Pressure of Gas.**

(a) Each gas utility supplying gas for domestic or commercial purposes shall, subject to the approval of the Commission, adopt and maintain a standard pressure of gas as measured at the outlet of any consumer's meter. In adopting such a standard pressure, each utility may divide its distributing system into districts and establish a separate standard pressure for each district, or the utility may establish a single standard pressure for its distributing system as a whole.

(b) The standard pressure adopted as herein provided shall be filed with the Commission as a part of each gas utility's schedule of rates, rules and regulations, and shall be clearly set forth in the schedules of rates, rules and regulations of the utility kept open to public inspection at each office or location where applications for service are received.

(c) No change shall be made by any gas utility in the standard pressure adopted by it for any district or system without the approval of the Commission.

**20. Minimum and Maximum Gas Pressure.**

The pressure of gas supplied by any gas utility to domestic or commercial consumers, as measured at the outlet of any such consumer's meter, shall not be less than two inches nor more than twelve inches of water pressure; provided that in the case of utilities serving natural or mixed gas, these limits may be modified upon formal authorization of the Commission.

**21. Variations in Gas Pressure.**

Gas shall be supplied by each gas utility to domestic and commercial consumers at a pressure not varying by an amount more than fifty per cent (50%) above or below the standard pressure which the utility has adopted for a district or system, as herein provided, and no such variation in pressure in case of low pressure delivery shall be more than that equivalent to four inches of water column, and no variation in pressure of two inches or more of water column shall occur in a shorter time than fifteen (15) minutes.

**22. Pressure Testing Equipment and Tests.**

(a) Each gas utility shall own and maintain at least one recording gas pressure gauge on each principal gas distribution main leaving each gas generating plant, boosting station or compressor station and no

utility shall maintain less than two such gauges unless specifically relieved in writing by the Commission.

(b) Each gas utility shall own and maintain at least one low pressure, portable recording pressure gauge for each one hundred (100) miles of main or fraction thereof in any district as may be ruled a separate distributing system by the Commission.

(c) Each gas utility shall make each week at least one twenty-four hour record of pressure at the outlet of consumers' meters for each one hundred (100) miles of main or less in each district or separate distributing system. Such record shall bear the name of the consumer where the pressure is taken, the address of such consumer and the date, together with such other information as the Commission may from time to time direct and shall be filed and retained as a continuous record in the office of each district or distributing system where the records are taken.

#### 23. Standard Methods of Testing Service Meters.

Each gas utility shall adopt and maintain standard methods of testing gas service meters, which methods and the facilities used in connection therewith shall be reported to the Commission for approval.

#### 24. Meter Testing Equipment.

(a) Each gas utility shall own an approved type of meter prover for each district as may be ruled a separate distributing system by the Commission and shall maintain such equipment in proper adjustment to register the accuracy of any service meter to within one-half per cent ( $\frac{1}{2}\%$ ). No meter prover shall be so placed as to be subject to excessive temperature variation, and each meter prover shall be equipped with suitable thermometers and other necessary accessories.

(b) Each utility using orifice meters, Westinghouse meters, proportional meters or other large capacity meters shall own and maintain testing apparatus of a type approved by the Commission.

(c) The accuracy of all provers and methods of operating will be established from time to time by a representative of the Commission. All alterations, accidents, or repairs which might affect the accuracy of any meter prover, or the method of operating same, shall be promptly reported in writing to the Commission.

#### 25. Records of Meters and Meter Tests.

(a) A complete record of the tests made under these rules shall be kept by each gas utility. The record so kept shall contain complete information concerning each test, including the date when, and the place where, the test was made; the name of the inspector conducting the test, the result of the test, and such other information as may be required by these rules, or as the Commission may from time to time

direct, and such additional information as the utility making the test may deem desirable.

(b) Whenever any service meter is tested, the original test record shall be preserved, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter upon removal from service, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of the methods employed and the results obtained.

(c) A record shall be kept numerically arranged by meter numbers, indicating for each meter owned or used by a gas utility its type, size and date purchased, together with the dates and locations of each installation, the date and result of each test, and date and character of all repairs made.

#### 26. Gas Service Meter Accuracy.

(a) All tests to determine the accuracy of registration of any gas service meter shall be made with a suitable meter prover.

(b) Every gas service meter, when installed for the use of any consumer, shall be in good order and shall have been adjusted to be correct within one per cent (1%) fast or two per cent (2%) slow when passing gas at a rate which will cause a pressure drop of from one-quarter to one-half inch of water column in the meter. The meter shall be adjusted so that the open flow test agrees with the check flow test within two per cent (2%), provided however that no meter shall be put in service which on any test proves in excess of one per cent (1%) fast. Any meter, the readings or record of which is based on the differential pressure in such meter, or upon the measurement of any portion of the total gas delivered to a consumer, shall be tested for accuracy before installation in a manner satisfactory to the Commission.

#### 27. Periodic Tests of Service Meters.

(a) No gas meter hereafter installed shall be allowed to remain in service more than six years from the time when last tested without being retested in the manner herein provided, and if found inaccurate, each such meter shall, at the time of each test, be readjusted to be correct within the prescribed limits before again being installed.

(b) During each period of twelve months, after these rules shall become effective, until all meters now in service shall have been tested, each gas utility shall remove and test not less than fifteen per cent (15%) of all meters now in service; those meters longest in service being removed first. Such meters shall not be replaced in service until tested and made to comply with the provisions of these rules; provided that on and after January 1, 1924, there shall be no meters remaining in service which have not been tested within six years prior to that date.



**28. Meter Testing on Request of Consumer.**

(a) Each gas utility shall at any time when requested by a consumer, upon not less than five days notice, test the accuracy of any meter in use by him.

No deposit or payment shall be required from the consumer for such meter test except when a consumer, whose average monthly bill for gas service is less than fifty dollars (\$50) requests a meter test within six months after date of the installation of said meter, or six months after the last previous test, in which case he may be required by the utility to deposit with it, to cover the reasonable cost of such test, an amount not to exceed the following, unless specifically authorized by the Commission:

- |   |                  |
|---|------------------|
| 1. For meters not to exceed a capacity equivalent to a 5-light meter -----  | \$1 00 per meter |
| 2. For meters having an equivalent capacity exceeding that of a 10-light meter, but not exceeding that of a 45-light meter -----  | 2 00 per meter   |
| 3. For meters having an equivalent capacity exceeding that of a 45-light meter, but not exceeding that of a 100-light meter ----- | 4 00 per meter   |

The amount deposited with the utility shall be refunded to the consumer if the meter is found to register more than two per cent fast or slow under conditions of normal operation.

(b) A consumer shall have the right to require the utility to conduct the test on his meter in his presence, or if he so desires, in the presence of an expert or other representative appointed by him.

(c) A report giving the name of the consumer requesting the test, the date of the request, the location of the premises where the meter was installed, the meter statement at time of removal, the date tested, and the result of the test, the type, make, size and number of the meter, the date of removal and deductions drawn therefrom shall be supplied to such consumer within a reasonable time after completion of the test and a duplicate of such report shall be filed with the Commission.

**29. Referee Tests by Commission.**

Upon written application to the Commission by any consumer, a test may be made of such consumer's service meter, as soon as practicable, by a representative of the Commission. The application for such test shall be accompanied by a remittance of the amount fixed below as the fee for such test. If upon test the meter is found to be more than two per cent (2%) fast or slow, this fee shall be repaid to the consumer by the utility supplying gas through such meter. The fees for referee meter tests are:

- |   |                  |
|---|------------------|
| 1. For meters not exceeding a capacity equivalent to a 10-light meter -----   | \$2 00 per meter |
| 2. For meters having an equivalent capacity exceeding that of a 10-light meter, but not exceeding that of a 45-light meter -----  | 4 00 per meter   |
| 3. For meters having an equivalent capacity exceeding that of a 45-light meter, but not exceeding that of a 100-light meter ----- | 8 00 per meter   |

Fees for referee tests of meters of larger capacity or for testing meters under extraordinary conditions will be furnished upon application to the Commission.

This rule shall not interfere with the practice of any gas utility with reference to its tests of gas service meters, except that in the event of an application by a consumer to the Commission for a referee test as herein provided, the utility after having been notified of such application, shall not remove, interfere with, or adjust the meter to be tested without the written consent of the consumer, approved by the Commission.

### 30. Adjustment of Bills for Meter Error.

(a) *Refunds.* When, as the result of any test, a meter is found to be more than two per cent (2%) fast, the utility shall refund to the consumer the overcharge, based on the corrected meter readings for the period in which the meter was in use, not exceeding six months, unless it can be shown that the error was due to some cause, the date of which can be fixed. In this case the overcharge shall be computed back to, but not beyond, such time.

(b) If, in the case of domestic or residential service, the meter upon test as herein provided is found not to register, or to register less than 75 per cent of the actual consumption, an average bill or an estimated bill for the gas consumed, but not covered by the bills previously rendered during a period not to exceed three months, may be rendered to the consumer by the utility, subject to review by the Commission.

(c) If a meter for commercial service, upon test, as herein provided, is found to register more than two per cent (2%) slow, the utility may render a bill for gas consumed but not covered by bills previously rendered during a period not to exceed three months, subject to review by the Commission provided that if the actual period of error exceeds three months and same can be definitely determined, the correction to be made as herein provided may cover such actual period, subject to the approval of the Railroad Commission.

(d) The nonpayment of any average bill rendered in accordance with this section, shall not be held sufficient cause permitting discon-

tinuance of gas service except under written authority from the Railroad Commission.

**31. Prepayment Meters.**

Each gas utility using prepayment meters shall file with the Commission, and obtain its approval thereto, a schedule or schedules of rates to be charged for gas sold through prepayment meters. No gas utility shall use prepayment meters set or geared so as to cause a rate or amount to be paid differing from the rate indicated by this approved schedule, which shall be made a part of the schedule of rates, rules and regulations, except with written authority from the Railroad Commission.

**32. Maintenance and Operation of Facilities.**

(a) Each gas utility, unless specifically relieved in any case by the Commission from such obligation, shall operate and maintain in safe, efficient and proper condition all of the facilities and instrumentalities used in connection with the furnishing, regulation, measurement and delivery of gas to any consumer up to and including the point of delivery, which point for the purpose of these rules shall be deemed to be the outlet fitting of the meter installed by the utility.

(b) Each gas utility, unless specifically relieved in any case by the Commission from such obligation, should upon request of any consumer and without extra charge, make an inspection of and adjustment of appliances in use by that consumer.

**33. Complaints.**

(a) Each gas utility shall make a full and prompt investigation of all complaints made to it by its consumers, either directly or through the Commission.

(b) Each gas utility shall keep a chronological record of all complaints received which shall show in each case the name and address of the complainant, the date of receiving a complaint, the date and method of disposal, and name of service man responsible. The record shall be kept at least twelve months after the complaint has been adjusted.

**34. Information for Consumers.**

(a) Each gas utility shall, upon request, give its customers such information and assistance as is reasonable in order that customers may secure safe and efficient service, and upon request shall render every reasonable assistance in securing appliances that are properly adapted and adjusted to the gas service furnished.

(b) Each gas utility shall inform its consumers of any change made, or proposed to be made, in the character of the service supplied, as would affect the efficiency or safety of operation of the appliances or equipment which may be in use by said consumer.

(c) Each gas utility shall adopt some means of informing its consumers as to the method of reading meters, either by printing on its bills a description of the method of reading meters, or by a notice to the effect that the method will be explained upon application at any office where applications for service are received.

**35. Meter Readings and Bill Forms.**

(a) Each meter shall indicate clearly the cubic feet of gas registered by such meter. In cases where the dial readings of a meter must be multiplied by a constant to obtain the cubic feet consumed, the proper constant to be applied shall be clearly marked on the meter case. Where gas is metered under high pressure or where the quantity is determined by calculations from recording devices, the company shall supply the consumer with such information as will cover the conditions under which the quantity is determined.

(b) Upon written request of any consumer each gas utility shall cause the meter reader, at the time the consumer's meter is read, to leave at the premises, or with the consumer, a statement showing the date and time when such reading was made and the total registration recorded.

(c) Bills rendered to consumers shall show the reading of the meters at the beginning and end of the period for which the bill is rendered, the number of cubic feet of gas supplied and the date of the meter readings. Each bill shall bear upon its face the date when the bill was mailed to or left upon the premises of the consumer. On all bills which are computed on any other basis than a definite charge per unit of service, the other factors used in computing the bill shall be clearly stated thereon or submitted to the consumer upon request, so that the amount of the bill may be readily recomputed.

(d) Copies of all forms of bills, bill stubs and notices appertaining to the payment of bills shall be filed with the Commission as a part of the schedule of rates, rules and regulations then in force. No change shall be made in any such bill, bill stub or notice, without the approval of the Commission.

**36. Deposits or Prepayments to Obtain Service.**

(a) Each utility may require from any consumer or applicant for service, a deposit intended to guarantee payment of current bills, as may be approved or ordered by the Railroad Commission; provided that a deposit shall not be required from an applicant for domestic service who is the owner of real property in the community where service is desired. Interest shall be paid by the utility upon such deposits at the rate of six per cent (6%) per annum, payable annually for the period such deposit was held by the utility, provided such period be not less than twelve months.

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(b) Each utility receiving such deposits from consumers shall keep a record showing the name of the consumer making the deposit, the premises occupied by the consumer, the date deposit was made, the amount of the deposit and the interest accrued, paid or credited.

(c) Each utility shall file with the Commission for approval, rules governing the acceptance and repayment of such deposits, and these rules shall be made a part of the schedule of rates, rules and regulations on file with the Commission, and kept open for public inspection in each office or location where applications for service are received.

(d) No gas utility shall require from any consumer or prospective consumer, a deposit or prepayment intended to pay for all or any part of the cost of an extension or installation of service except under rules and regulations approved by the Commission, and set down in the public schedules on file with the Commission and open to public inspection at each office or location where applications for service are received.

### 37. Main Extensions.

Each gas utility shall file with the Commission its definite rules and regulations providing for the making of gas main extensions and no utility shall make or refuse to make any extension except as permitted by these rules and regulations regularly filed and approved by the Commission and open to public inspection at each office or location where applications for service are received.

### 38. Service Pipes.

(a) Upon application by any bona fide applicant for service, each gas utility shall, at its own expense, furnish and install a service pipe of suitable capacity to the property line or curb line of property abutting upon any public street, highway, alley, lane or road along which the utility already has, or will install, street mains.

(b) Service pipes may be installed by a gas utility beyond the property line or curb line under uniform rules to be adopted by the utility and set forth in its schedule of rates, rules and regulations on file with the Commission, and kept open for public inspection at each office where applications for service are received.

(c) Each gas utility shall, upon application of any consumer or prospective consumer, furnish and install at its own expense a suitable service cock or valve properly housed or encased so as to be accessible at all times for the purpose of shutting off the flow of gas at the curb line.

(d) No gas utility which has established the practice of extending service pipes at its own expense beyond the property line or curb line shall abandon or alter such practice in any respect, except upon a showing before the Commission that a change in such practice is justified.

(e) In connection with service extensions to the property line or curb line, railroad and street railway rights of way, or other similar continuous rights of way, immediately adjacent to any public street, highway, alley, lane or road, will, for the purpose of these rules, be deemed to be a portion of the public highway beyond which each gas utility must extend its service pipes at its own expense.

**39. Meter Setting Schedule.**

Each utility shall have, and shall file with the Commission for approval, rules governing the type and size of service and meter, to be installed to provide adequate service and accurate registration under the load conditions imposed.

**40. Meters and Regulators.**

(a) Each gas utility shall provide and install at its own expense and shall continue to own, maintain and operate all equipment for the regulation and measurement of gas at the point of delivery.

(b) All service meters hereafter installed on consumer's premises shall normally be located as near as possible to the point where the service pipe enters the building, and so placed as to be at all times accessible for inspecting, reading and testing. Prepayment meters shall be so located as to be easily accessible to the consumer.

(c) In buildings in which separate meters are required for the various floors or groups of rooms in order to measure the gas supplied to each tenant, the utility may require that all meters be located at a central point or if necessarily installed in separate locations, that they be placed so as to be accessible without entering private rooms. Each such meter shall be clearly marked to indicate the particular service supplied by it.

(d) Master-meters shall be furnished and installed by a gas utility upon written application by the owner, lessee or tenant of any building having five or more groups of rooms or floors which are rented and metered separately; provided that the utility shall not be required to supply both master and sub-meters free, but may require the owner, lessee or tenant to either purchase outright or pay a reasonable rental charge for each sub-meter in case gas is sold to the consumer through a master-meter to be resold by him through sub-meters.

**41. Discontinuance of Service for Violation of Rules.**

(a) Except in cases of nonpayment of bills, rules governing which have heretofore been fixed by the Commission, or in cases of emergency, no gas utility shall discontinue the service of any consumer for violation of any rule or regulation of such utility except on written notice of at least five days, advising the consumer in what particular such rule has been violated for which service will be discontinued if the violation is permitted to continue.

(b) This rule may be waived where evidence of fraud is discovered or in the event of discovery of a dangerous leakage on a consumer's premises, or in case of a consumer utilizing the service in such a manner as to make it dangerous for occupants of the premises, or any other usage or wastage tending to endanger proper and efficient service to other consumers, thus rendering the immediate discontinuance of service to the premises imperative.

(c) In the event of discontinuance of service for any of the reasons herein set forth, the consumer shall be notified of such discontinuance immediately, with a statement of the rule violated and the nature of the violation.

(d) No gas utility shall discontinue the service of any consumer for any infraction or violation of any rule of the utility, after the violation has been discontinued by the consumer.

#### 42. Reports to the Commission.

Each gas utility shall at such time and in such form as the Commission shall prescribe, report to the Commission the result of all tests required to be made or the information contained in any record required to be kept by the utility.

#### 43. Rate Schedules, Rules and Regulations.

Copies of all schedules of rates for service, charges for service connections and extensions of mains, forms of contracts, and of all rules and regulations covering the relations between consumers and the utility shall be filed by each utility in the office of the Commission. Complete schedules, contract forms, rules and regulations, etc., as approved by the Commission, shall also be on file in each business office of the utility, and shall be open to the inspection of the public.

#### 44. General Provisions.

(a) The adoption of these rules shall in no way preclude the Commission from altering or amending the same in whole or in part, or from requiring any other or additional service, equipment, facility, standard or practice, either upon complaint or upon its own motion, or upon the application of any utility or consumer.

(b) In any case where any gas utility is supplying gas to consumers under conditions more favorable or advantageous to such consumers than are provided in these rules, either as to quality or character of service, no change shall be made in such service conditions without the further approval of the Commission.

#### 45. Modification of Rules.

Any gas utility may of its own accord establish uniform nondiscriminatory rules more favorable to its consumers than the rules herein established. The rules herein established shall take precedence over all

orders, general or special, heretofore made by the Commission in so far as said orders may be inconsistent with these rules.

The rules herein established shall take precedence over all rules filed or to be filed by gas utilities in so far as inconsistent therewith. Rules now on file and inconsistent with the rules herein established shall be properly revised and re-filed within thirty days from the effective date of this order.

If hardship results from the application of any rule herein prescribed because of special facts, application may be made to the Commission for a modification of such rule provided that no utility shall submit any rule or regulation for the approval of the Commission which is contrary to any section of this order without submitting therewith a full and complete justification of such rule.

This order shall become effective on April 1, 1923.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,  
H. G. MATHEWSON, Secretary.

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DECISION No. 11735.

IN THE MATTER OF THE JOINT APPLICATION OF THE INGLEWOOD WATER COMPANY AND THE CITY OF INGLEWOOD, CALIFORNIA, FOR AN ORDER GRANTING PERMISSION FOR THE SAID CITY TO EXERCISE ITS EXISTING OPTION ON CERTAIN REAL ESTATE OWNED BY SAID COMPANY, AND FOR SAID COMPANY TO SELL THE SAID REAL ESTATE PURSUANT TO THE TERMS OF SAID OPTION TO SAID CITY.

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Application No. 8732.  
Decided March 1, 1923.

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BY THE COMMISSION.

**ORDER.**

The Railroad Commission by Decision No. 6960, dated December 19, 1919, in Application No. 5152 authorized Inglewood Water Company to lease certain of its properties to the city of Inglewood. The lease which the Commission authorized to be executed gave the city of Inglewood an option to purchase the properties for \$50,000. A copy of the lease with option to purchase is filed in Application No. 5152 and marked "Exhibit F."

On February 27th the Inglewood Water Company filed an application with the Commission asking permission to sell the properties described in "Exhibit F" to the city of Inglewood, which intends to exercise its rights under the lease, with option to purchase.

The Commission has considered applicant's request and is of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted; therefore,



*It is hereby ordered*, that Inglewood Water Company be and it is hereby authorized to sell to the city of Inglewood the properties described in "Exhibit F" filed in Application No. 5152, said sale to be made pursuant to the terms and conditions set forth in said "Exhibit F."

The authority herein granted is subject to further conditions as follows:

(1) Within 10 days after the sale and transfer of the properties the Inglewood Water Company shall file with the Commission a verified copy of the deed transferring the title to the properties in question to the city of Inglewood.

(2) The authority herein granted will become effective on the date hereof and will expire on May 1, 1923.

Dated at San Francisco, California, this first day of March, 1923.

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DECISION No. 11736.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA  
EDISON COMPANY FOR AN ORDER PERMITTING IT TO SELL  
CERTAIN REAL PROPERTY SITUATED IN THE CITY OF LONG  
BEACH, CALIFORNIA.

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Application No. 8699.

Decided March 1, 1923.

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BY THE COMMISSION.

**ORDER.**

Southern California Edison Company has asked permission to sell to the Owl Drug Company for the sum of \$145,750 a certain lot in the city of Long Beach, more particularly described hereinafter and the building thereon which is now being used as the Long Beach office of applicant.

Owing to the increase of applicant's business in and around Long Beach this building has become too small to serve the purposes for which it has heretofore been used and applicant now wishes to dispose of it and to acquire other property which will adequately fulfill the requirements of the Long Beach office.

Applicant has arranged to rent this building from the purchaser, after the consummation of this sale, for a period ending August 1, 1923, prior to which date it expects to have secured and made ready for occupancy another and suitable office building in Long Beach.

The Commission has considered this application and is of the opinion that a hearing is not necessary and that this application should be granted, therefore,

*It is hereby ordered*, that Southern California Edison Company be and it is hereby authorized to sell and transfer to the Owl Drug

Company for the sum of one hundred forty-five thousand seven hundred fifty dollars (\$145,750), that certain lot or parcel of land situate in the city of Long Beach, county of Los Angeles, State of California, more particularly described as:

Lot two (2), block one hundred four (104), of the city of Long Beach as per map recorded in book 7, page 90, miscellaneous records of said county.

together with the building thereon, subject to the following conditions:

(1) Within thirty days after the transfer of the property herein authorized Southern California Edison Company shall file with the Railroad Commission a verified copy of the deed of conveyance.

(2) The authority herein granted to transfer property will apply only to such property as may be transferred on or before August 15, 1923.

Dated at San Francisco, California, this first day of March, 1923.

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DECISION No. 11737.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, A CORPORATION, AND THE OLYMPIC CLUB, A CORPORATION, FOR ORDER AUTHORIZING SPRING VALLEY WATER COMPANY TO SELL AND CONVEY TO SAID THE OLYMPIC CLUB CERTAIN REAL PROPERTY.

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Application No. 8703.

Decided March 1, 1923.

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BY THE COMMISSION.

**ORDER.**

Spring Valley Water Company asks permission to sell to The Olympic Club 197.96 acres of land described in Exhibit 1 filed in this proceeding. This land is useful to the Spring Valley Water Company for watershed purposes only, but is not included in the properties which the company offered to the city and county of San Francisco on January 14, 1921. The proposed deed requires The Olympic Club to keep the property clean and free from any and all nuisances, to protect the same from trespass and to keep the same free from all things which would be detrimental to the watershed of the Laguna de la Merced as a source of water supply.

Spring Valley Water Company also asks permission to relinquish the right to enter upon 1.694 acres of land sold in 1916 to Lakeside Golf Club, and install beneath the surface of the ground pipes and conduits and maintain them. The Olympic Club intends to acquire the 1.694 acres. The Spring Valley Water Company has never availed itself of the right reserved and reports that such right is not used or useful in the performance of its obligations to the public.

The Commission has considered applicants' requests and believes that it is not a matter in which a hearing is necessary and that the request should be granted as herein provided; therefore,

*It is hereby ordered*, that Spring Valley Water Company be and it is hereby authorized to sell the properties described in Exhibit 1 filed in this proceeding and to relinquish the right reserved and granted to it in and by the indenture of October 5, 1916, described in Exhibit 4 filed in this proceeding.

The authority herein granted is subject to the following conditions:

(1) Within ten days after its execution, Spring Valley Water Company shall file with the Commission a certified copy of the deeds or other instruments of conveyance whereby it transfers the properties which are the subject matter of this application.

(2) The authority herein granted will become effective on the date hereof.

Dated at San Francisco, California, this first day of March, 1923.

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DECISION No. 11739.

IN THE MATTER OF THE APPLICATION OF CHARLES G. NEWMAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE SIGHTSEEING AUTO TRIP SERVICE BETWEEN LONG BEACH AND SAN DIEGO, OLD MEXICO, RIVERSIDE, REDLANDS, PASADENA, HOLLYWOOD, GLENDALE, SANTA MONICA, OCEAN PARK, VENICE AND REDONDO, CALIFORNIA, AND SANTA BARBARA.

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Application No. 8722.

Decided March 1, 1923.

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AUTOMOBILE SIGHTSEEING BUSES—IRREGULAR SERVICE.—Does not come within provision of chapter 213, Statutes of 1913, requiring a certificate of public convenience and necessity from the Railroad Commission.

BY THE COMMISSION.

**ORDER.**

Charles G. Newman has filed an application with the Railroad Commission in which he petitions for a certificate of public convenience and necessity authorizing the operation of an automobile sightseeing service over certain routes in southern California as more specifically hereinafter mentioned. All of the trips originate and terminate at Long Beach and operate over the following described routes:

One 2-day trip over the Coast Route to San Diego, Coronado, Tijuana and various points of interest, returning to Long Beach.

One 1-day trip to Riverside, Redlands and intermediate points, originating and terminating at Long Beach.

One 1-day trip through Pasadena, Hollywood, and the beach district, originating and terminating at Long Beach.

One 2-day trip to Santa Barbara and various intermediate points of interest, also originating and terminating at Long Beach.

Applicant also states that the time schedules to be followed are subject to instructions and orders of the passengers carried; that the

rates to be charged for this service are \$24 per day for four passengers or less and \$32 per day for eight passengers or less. Applicant uses one 8-passenger Pierce-Arrow touring car in this service.

Section 1, subsection (c) of chapter 213, Statutes of 1917, as amended reads in part as follows:

Provided that the term "transportation company" as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel busses or sightseeing busses, or any other carrier which does not come within the term "transportation company" as herein defined.

It clearly appears that operation as described in the application herein is defined solely under the term "sightseeing busses," in that there is no fixed rate per passenger covering a transportation service from one termini to another, but a flat rate per 24 hours for the car itself, divided solely as between the whole or half of the car seating capacity. Further, applicant proposes no regular service over any of the routes as described, but merely offers a sightseeing service to various points of interest over different routes designated by the party hiring the machine at a fixed rate, time of operation to be regulated solely by the rentee of the machine in question, party to be transported over the specific route chosen and returned to his point of origin.

We are of the opinion that operation as described in the application for a certificate as filed by applicant herein does not come within the provisions of the above-mentioned statutory enactment requiring a certificate of public convenience and necessity before service may be inaugurated and accordingly the application should be dismissed.

*It is hereby ordered*, that the above entitled application be and the same hereby is dismissed.

Dated at San Francisco, California, this first day of March, 1923.

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DECISION No. 11742.

IN THE MATTER OF THE APPLICATION OF WILLIAM CROMLIE, DOING BUSINESS UNDER THE FICTITIOUS NAME OF CORCORAN TELEPHONE AND TELEGRAPH EXCHANGE, AND OF CORCORAN TELEPHONE EXCHANGE, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE OF PROPERTY.

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Application No. 8533.

Decided March 2, 1923.

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*James S. Bennett*, for Applicants.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing the transfer of the telephone properties and business now owned by William Cromlie and operated under the firm name and style

of Corcoran Telephone and Telegraph Exchange, to Corcoran Telephone Exchange, a corporation, and the issue of stock and notes and the assumption of indebtedness by the corporation.

A public hearing was held before Examiner Williams in Los Angeles.

It appears that William Cromlie, since 1911, has been engaged in the business of giving telephone service in and about the town of Corcoran, Kings County. On December 31, 1922, 141 subscribers were served. During 1922 the gross revenues of the business were reported as \$5,373.38; during 1921 as \$5,187.80, and during 1920 as \$5,429.72. After paying operating and other expenses, there was reported a net profit for 1922 of \$513.48, for 1921 of \$42.63, and for 1920 of \$929.72. At the hearing in this matter applicants filed as an exhibit an appraisal of the properties proposed to be transferred to the corporation, which shows the estimated replacement value, as of December 31, 1921, as \$12,059.11. Since the date of the appraisal, William Cromlie reports that he expended for extensions, additions and betterments, the sum of \$1,195.79, which amount added to the \$12,059.11, increases the estimated value to \$13,254.90.

The testimony herein shows that there is outstanding against these properties indebtedness of \$6,592.79, which includes \$4,500 of 8 per cent notes secured by mortgage of the properties, \$123.75 of interest matured and unpaid, \$1,500 of rents due and unpaid, \$100 for engineering services in connection with this proceeding, and \$369.04 for accrued taxes. The \$4,500 of secured notes just referred to were issued pursuant to authority granted by the Commission on March 21, 1921, by Decision No. 8779, and consists of sixteen notes of approximately equal face value, the first note having matured on July 15, 1921, and the last maturing on April 15, 1925. Of this amount, notes of the face value of \$843.75 have matured and are unpaid.

William Cromlie now desires to sell his telephone business and properties to a corporation and has caused Corcoran Telephone Exchange to be organized for the purpose of receiving and operating such properties and business. No change in management or control will result from this proposed transfer. It appears that the corporation was organized on or about November 27, 1922, with an authorized capital stock of \$25,000, divided into 250 shares of the par value of \$100 each. It reports that its directors have subscribed for three shares and that it has agreed to deliver the remaining 247 shares (\$24,700) to William Cromlie for the properties referred to in this opinion, and to assume the payment of the outstanding indebtedness of \$6,592.79.

We do not believe that the evidence in this proceeding warrants the Commission to make an order authorizing Corcoran Telephone Exchange to issue \$24,700 par value of stock and to assume the payment of

indebtedness of the face value of \$6,592.79 in payment for such properties. It occurs to us that the amount of stock which Corcoran Telephone Exchange should be permitted to issue for these properties should not exceed the reported replacement value, less the face amount of indebtedness to be assumed. We therefore will authorize the issue of \$6,700 of stock and the assumption of indebtedness of \$6,592.79 by Corcoran Telephone Exchange in payment for the properties of William Cromlie, referred to in this opinion.

Corcoran Telephone Exchange reports that it may desire to execute its own notes and mortgage in place of those heretofore issued by William Cromlie. It asks that it be permitted to issue not exceeding \$4,500 face value of four-year 8 per cent notes in place of the notes of like amount now outstanding, and to secure the payment of such notes, if issued, by a mortgage of its properties substantially in the same form as that filed in Application No. 6641, and authorized to be executed by Decision No. 8779, the only difference being the substitution of the name of the corporation for that of William Cromlie.

#### ORDER.

William Cromlie having applied to the Railroad Commission for permission to sell and convey his telephone properties to Corcoran Telephone Exchange, a corporation, and Corcoran Telephone Exchange having applied for permission to issue \$24,700 of stock, to assume indebtedness and to issue notes, a public hearing having been held and the Commission being of the opinion that Corcoran Telephone Exchange should be permitted to issue \$6,700 of stock and that the money, property or labor to be procured or paid for by the issue of stock and notes and the assumption of indebtedness is reasonably required by Corcoran Telephone Exchange;

*It is hereby ordered*, that William Cromlie be and he is hereby authorized to sell and convey his telephone properties and business mentioned in the foregoing opinion to Corcoran Telephone Exchange, and Corcoran Telephone Exchange be and it is hereby authorized, in full payment of such properties and business, to issue to William Cromlie, or his assigns, \$6,700 of its capital stock and to assume the payment of outstanding indebtedness in an amount not exceeding \$6,592.79, and referred to in the foregoing opinion.

*It is hereby further ordered*, that Corcoran Telephone Exchange be and it is hereby authorized to issue not exceeding \$4,500 of notes in place of the notes of a like amount, the payment of which it is herein authorized to assume, and to execute a mortgage of its properties substantially in the same form as that filed with the Commission in Application No. 6641, and authorized to be executed by Decision No. 8779, dated March 21, 1921.

*It is hereby further ordered*, that the application, in so far as it relates to the issue of \$18,000 of stock, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. The price at which William Cromlie is herein authorized to transfer properties shall never be urged before this Commission, or other court or public body, as a measure of value of the properties for fixing rates, or for any purpose other than this transfer.

2. The notes which Corcoran Telephone Exchange is herein authorized to issue shall mature on or before four years after date of issue and shall bear interest at not exceeding 8 per cent per annum.

3. The authority herein given to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

4. Corcoran Telephone Exchange shall keep such record of the issue, sale and delivery of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted will become effective when Corcoran Telephone Exchange has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and will expire on May 31, 1923.

Dated at San Francisco, California, this second day of March, 1923.

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DECISION No. 11743.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

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Application No. 7715.

Decided March 2, 1923.

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BY THE COMMISSION.

**EIGHTH SUPPLEMENTAL ORDER.**

The Railroad Commission on April 8, 1922, by Decision No. 10294, authorized San Joaquin Light and Power Corporation, among other things, to issue and sell \$3,500,000 of its Series "B" 6 per cent thirty-year noncallable unifying and refunding mortgage bonds, subject to the condition that all proceeds obtained from the sale of such bonds be deposited with a bank or banks, or trust company or trust companies;

until such time as the Commission by supplemental order might indicate the purposes for which such proceeds might be expended.

The Commission heretofore by various supplemental orders has authorized the company to expend the proceeds obtained from the sale of \$2,564,316.85 face value of bonds for the purpose of financing in part construction expenditures made prior to December 31, 1922. The company now reports in a supplemental petition filed in the above entitled matter on February 26, 1923, that during the month of January, 1923, it expended money or incurred indebtedness in the amount of \$608,315.25 for the purpose of providing necessary additions, extensions, improvements and betterments to its plants and properties. It further reports that none of these expenditures have been paid or provided for through the issue of stock or bonds. Applicant, therefore, asks permission to use the proceeds from the sale of \$608,315.25 of bonds to finance in part the reported expenditures which are described in detail in a statement on file with the Commission.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore

*It is hereby ordered*, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds from the sale of \$608,315.25 of the bonds authorized by Decision No. 10294, dated April 8, 1922, to pay indebtedness incurred in making its January, 1923, construction expenditures referred to herein, or to reimburse its treasury on account of earnings used for such expenditures.

*It is hereby further ordered*, that the order in Decision No. 10294, dated April 8, 1922, as amended, shall remain in full force and effect, except as modified by this eighth supplemental order.

Dated at San Francisco, California, this second day of March, 1923.



## DECISION No. 11744.

IN THE MATTER OF THE APPLICATION OF THE CITY OF MANTECA, CALIFORNIA, REQUESTING THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA TO FIX THE JUST COMPENSATION TO BE PAID BY SAID CITY, UNDER THE LAW, FOR THE LANDS, PROPERTY AND RIGHTS OF THE MANTECA WATER WORKS, A PUBLIC UTILITY, SELLING AND DISTRIBUTING WATER TO THE INHABITANTS OF SAID CITY OF MANTECA.

Application No. 8162.

Decided March 2, 1923.

*J. R. Scott*, for City of Manteca.

*Von Detten, Henry and Goodrum*, by *M. J. Henry*, for Manteca Water Works, Incorporated.

*J. S. P. Dean*, for A. Baccilieri.

MARTIN, *Commissioner*.

## OPINION.

The above entitled matter is a proceeding brought by the city of Manteca under the provisions of section 47 of the Public Utilities Act, requesting that the Railroad Commission fix the just compensation to be paid by the city of Manteca to Manteca Water Works, Incorporated, for its public utility water system which delivers water for domestic and industrial purposes in the city of Manteca. A description of the property involved, marked Exhibit "A," is attached hereto and made a part hereof.

A public hearing in this matter was held at Manteca, at which all interested parties were given an opportunity to appear and be heard. The matter has been submitted and is now ready for decision.

There are at issue in this proceeding the following main elements entering into the question of just compensation:

1. Valuation of lands and physical properties plus overheads.
2. Franchise.
3. Water rights.
4. Going concern value.
5. Severance damages.

This Commission has heretofore in its decisions outlined certain general principles governing the determination of just compensation to be paid for public utility property, which principles it will be unnecessary to reiterate in this proceeding.

It may be briefly stated, however, that the Public Utilities Act provides for a finding of just compensation in a single sum for the utility's lands, property and rights sought to be acquired. Paragraph 4, (b), section 47, provides:

When the proceeding has been submitted, the Commission shall make and file its written finding fixing, in a single sum, the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof; provided, that if the Commission finds that severance damages should be paid, the

just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the Commission as of the day on which the petition was filed with the Commission.

The value of the plant will, therefore, be considered as an indivisible gross amount. All the elements of property, tangible and intangible, will be considered as parts of a single entity, and individual findings of value, as to each element, will not be made.

A report of the Commission's hydraulic division, in which the various elements entering into the subject of just compensation were discussed, was presented by Mr. M. I. Reed, one of the Commission's hydraulic engineers. Included in this report was an appraisal of the utility's lands, physical property, franchises and water rights, based upon unit costs of materials and labor averaged over an assumed reasonable construction period of one year ending August 12, 1922, the date of filing of the petition with the Commission. The results of this appraisal were as follows:

Organization .....	\$750 00
Franchise .....	-----
Lands .....	\$25 00
Buildings .....	2,726 00
Wells .....	1,271 00
Tank and tower .....	6,713 00
Pumping equipment .....	13,155 00
Distribution pipe lines .....	28,434 00
Valves .....	545 00
Fire hydrants .....	1,385 00
Services .....	3,601 00
Meters .....	678 00
Meter and curb boxes .....	224 00
Materials and supplies .....	1,750 00
Water rights .....	-----
Total reproduction cost .....	\$62,057 00
Accrued depreciation .....	8,597 00
Reproduction cost less depreciation .....	\$53,460 00

Testimony indicates that the unit costs of materials and labor used in the preparation of the engineer's appraisal include some of the lowest prices which have prevailed since the early part of the year 1916, are in most cases lower than present day prices of materials, and are lower than many of the prices actually paid for a large portion of the materials used in the construction of this system. It is evident that this condition should be given due consideration in the final determination of just compensation and that neither abnormally low nor abnormally high prices should be given undue weight in proceedings of this character.

Manteca Water Works presented no appraisal of the property but confined its showing entirely to the matter of going concern value.

Mr. E. H. Jeffries, city engineer of Manteca, presented a "Report on Manteca Water Works for City of Manteca, San Joaquin County,

California, July, 1921," which was prepared by Mr. Chas. E. Sloan. This report was, by stipulation, admitted in evidence and was given all possible consideration in view of the fact that Mr. Sloan was not present for cross-examination and the further fact that the inventory shown therein does not contain all items of property which comprised the system on August 12, 1922, the date of filing of this petition.

No claim for franchise value was made by the utility and it does not appear that any expenditures were ever made in securing a franchise. It therefore appears that no allowance should be included in just compensation for this purpose.

It is also believed that no money value attaches to the company's right to pump from the underground water-bearing strata. Water can be secured at practically any point in this locality by drilling wells to the necessary depth, and, while it is clear that the utility has an unquestioned right to pump the quantity of water delivered to consumers in the past, in accordance with the law governing the rights to and values of percolating water, it appears that such values as exist are fully covered by the values assigned to the lands on which are located the wells and pumping plant.

It is well established by decisions of the courts that in valuing a public utility property for the purpose of eminent domain, consideration must be given to the element of going concern value, and if such value is shown to exist, allowance for it must be made. Going concern value is generally considered to be the difference in value between the dead physical structure and the business in financially successful operation. It appears from a study of various court decisions that to have any going concern value a company must at least be operating successfully, or, in other words, must be on a paying basis, and that the earning power and financial condition of the company are important factors to be considered in arriving at going concern value.

In this proceeding the evidence clearly shows that Manteca Water Works is now on a paying basis and is earning a reasonable return upon the investment.

A study of the results of operation from January 1, 1917, to July 31, 1922, indicates that this utility has for some years failed to earn a full return upon the investment in the plant and that, while now in a successful financial condition, has not yet had an opportunity to recover its necessary development costs.

Attention is called to the fact that had the City of Manteca constructed its own water system this same period of pioneering, development and inadequate return upon the investment would have been encountered. It is therefore evident, should the city at this time purchase this water system and its developed and successful business, that

some consideration should be given, in the determination of just compensation, to the reasonable cost of developing the business.

While this Commission does not recognize that the terms "going concern value" and "development cost" are in any way synonymous it is realized that a reasonable cost of developing the business may in some cases be used logically as a measure of going concern value.

Mr. Chester H. Loveland, consulting engineer, presented a report on behalf of Manteca Water Works in which the following claim for going concern value, based upon development costs during a three-year period, is made:

Clearly this company, in accordance with the practice of the Railroad Commission and the courts, is entitled to have included in its valuation for condemnation purposes, the amount of which it has been deprived in earnings, plus accrued interest during its development period, which would equal a sum of not less than \$7,803.

The Sloan report, previously referred to and introduced by the city of Manteca, recognizes the existence of going concern value in this water system and in 1921, when the business was not in as prosperous condition as at the present time, made an allowance of \$2,500 to cover "good-will, going-concern value, omissions and all other values."

Under the circumstances it is believed that some allowance should be made for going concern value and the finding of just compensation will include a reasonable amount to provide for this element of value.

As the city of Manteca desires to acquire the entire plant and business of Manteca Water Works there will be no damage resulting from the severance or disruption of the business.

Many other matters were submitted for the Commission's consideration as affecting the value of the plant and as having a bearing upon the final finding of just compensation. Elaborate and detailed discussion of these factors will not be attempted, but full consideration will be given in the final finding to all elements of value.

Included in the finding of just compensation is an item of \$1,750 for the value of materials, supplies and equipment. This amount should be adjusted at the mine the property is actually transferred to the city, to provide compensation for such items as may be shown to be on hand by exact inventory.

#### FINDINGS.

The city of Manteca, a municipal corporation, having filed with the Railroad Commission a petition as entitled above, and the Railroad Commission having proceeded, under the provisions of section 47 of the Public Utilities Act to fix and determine the just compensation to be paid by the city of Manteca to Manteca Water Works, Incorporated, for the public utility water system supplying water to consumers in the

city of Manteca, a public hearing having been held thereon, and the Commission having been fully advised in the matter:

It is hereby found as a fact that the just compensation to be paid by the city of Manteca to Manteca Water Works, Incorporated, for that company's public utility water system supplying water to consumers in the city of Manteca, as the same existed on August 12, 1922, and more particularly described in Exhibit "A" attached hereto and made a part of these findings, is the sum of fifty-six thousand five hundred dollars (\$56,500).

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of March, 1923.

#### EXHIBIT "A."

Description of Property to Be Acquired by the City of Manteca from Manteca Water Works, Incorporated, as Covered in Application No. 8162.

#### REAL ESTATE.

All of lots 9 and 10 of block 3 of Baccilieri Park Addition to the city of Manteca.

#### BUILDINGS.

Pump House. 22 feet by 38 feet by 7 feet to eaves. Gable roof covered with galvanized sheet iron and galvanized corrugated iron. Concrete pump pit averaging 6 feet deep.

Store House. 18 feet by 24 feet by 8 feet to eaves. Gable roof covered with galvanized sheet iron.

Barn. 25 feet by 30 feet by 9 feet to eaves. Gable roof, shingled. Vertical siding.

Tank House. 12 feet 5 inches by 12 feet 5 inches by 36 feet to eaves. Hip roof, shingled. Channel rustic sides. Painted. 3000 gallon, redwood stave tank.

#### WELLS.

Well No. 1. 12 inches diameter, 243 feet deep. No. 14-gauge double well casing.

Well No. 2. 8 inches diameter, 110 feet deep. No. 16-gauge double well casing.

#### TANK AND TOWER.

50,000 gallon, redwood stave tank; 22 feet diameter by 20 feet high, on steel tower, 80 feet high, 4 columns on concrete piers.

#### PUMPING EQUIPMENT.

Fairbanks-Rumsey Unit. Rumsey triplex pump, figure 690, 10½ by 12, direct connected by automatic friction clutch with 50-horsepower Fairbanks-Morse oil engine, type Y, style V. Complete with discharge and suction piping, oil tanks, air compressor, air tanks, 1½ horsepower, type Z, gasoline engine, fly wheel, outboard bearing stand, extended shaft, concrete foundations, etc.

General Electric-Sandusky Unit. Sandusky triplex pump, No. 231, 7 by 8, geared to 25-horsepower General Electric, 40 degrees, type K, electric motor, 220-volt, 1200 r.p.m., 3-phase, with standard starting equipment. Complete with discharge and suction piping and concrete foundations.

American-Westinghouse Unit. American two stage centrifugal pump, 2½-inch, flexible coupling connecting to 25-horsepower Westinghouse, 40 degree motor, type C. S., 220-volt, 1740 r.p.m., 3-phase, with standard starting equipment. Complete with suction and discharge piping, cast iron base and concrete foundations.

Miscellaneous Pumping Equipment. Consisting of discharge pipe to tank, pipe line to wells No. 1 and No. 2, miscellaneous piping, pressure gauges, cooling system, switchboard, etc.

## DISTRIBUTION PIPE LINES.

- 300 linear feet  $\frac{3}{4}$ -inch galvanized screw pipe.
- 100 linear feet 1-inch galvanized screw pipe.
- 5,410 linear feet 2-inch galvanized screw pipe.
- 955 linear feet 4-inch galvanized screw pipe.
- 1,720 linear feet 6-inch galvanized screw pipe.
- 820 linear feet 8-inch galvanized screw pipe.
- 26,795 linear feet 2-inch dipped screw pipe.
- 3,550 linear feet 4-inch dipped screw pipe.
- 250 linear feet 8-inch dipped screw pipe.
- 690 linear feet 4-inch redwood pipe—350-foot head.
- 3,410 linear feet 6-inch redwood pipe—350-foot head.
- 765 linear feet 8-inch redwood pipe—350-foot head.
- 320 linear feet 6-inch dipped casing pipe.
- 84 linear feet 6-inch flanged cast iron pipe.

## VALVES.

- 40 two-inch brass screw valves.
- 7 four-inch iron body brass mounted screw valves.
- 1 six-inch iron body brass mounted screw valve.
- 5 six-inch iron body brass mounted hub ends.
- 2 eight-inch iron body brass mounted hub ends.

## FIRE HYDRANTS.

- 4  $2\frac{1}{2}$ -inch outlet—4-inch stand pipe hydrants.
- 4  $2\frac{1}{2}$ -inch outlet—3-inch stand pipe hydrants.
- 1 double  $2\frac{1}{2}$ -inch outlet—4-inch stand pipe hydrant.
- 1  $2\frac{1}{2}$ -inch outlet Corey hydrant.
- 12 double  $2\frac{1}{2}$ -inch outlet Corey hydrants.
- 1 2-inch fire rack.

## SERVICES.

- 475  $\frac{3}{4}$ -inch services.
- 47 1-inch services.
- 13 2-inch services.

## METERS.

- 2  $\frac{5}{8}$ -inch by  $\frac{3}{4}$ -inch Trident meters.
- 8  $\frac{5}{8}$ -inch by  $\frac{3}{4}$ -inch Empire meters.
- 14  $\frac{5}{8}$ -inch by  $\frac{3}{4}$ -inch Worthington meters.
- 4 2-inch Worthington meters.

## METER AND CURB BOXES.

- 12 No. 1 "Art" concrete boxes.
- 10 No. 1 "Forni" concrete boxes.
- 20 Small "Art" concrete boxes.
- 1 redwood box—12 inches by 60 inches by 24 inches.
- 1 redwood box—12 inches by 48 inches by 18 inches.
- 3 redwood boxes—16 inches by 16 inches by 18 inches.
- 1 redwood box—18 inches by 18 inches by 24 inches.
- 487 wood curb boxes.

## MATERIALS AND SUPPLIES.

All pipe, meters, meter parts, pipe fittings, valves and other materials on hand.  
Office furniture and fixtures.  
Automobile and other equipment.

The intent of the foregoing inventory is to set forth a full and complete description of the lands, property, rights, etc., owned by Manteca Water Works, Incorporated, on August 12, 1922, and used for the purpose of supplying water to consumers in the city of Manteca.

## DECISION No. 11746.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED CAPITAL STOCK.

Application No. 6895.

Decided March 6, 1923.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

The Railroad Commission by Decision No. 9128, dated June 21, 1921, authorized Southern Counties Gas Company of California to issue and sell, at not less than 95 per cent of par value, \$1,250,000 of its 8 per cent preferred stock. The order of the Commission permits the company to use \$893,051.32 of the proceeds received from the sale of its stock to pay notes and accounts payable. The remainder of the proceeds, and such portion of the \$893,051.32 not used to pay indebtedness, may be expended only for such purposes as the Commission will authorize by supplemental order.

In a supplemental petition filed in the above entitled matter on March 1, 1923, the company reports that it has used \$893,051.32 of the proceeds received from the sale of its stock to pay notes and accounts payable, as authorized by the Commission's decision. Applicant requests permission to use the remainder of the proceeds (\$332,694.68) from the sale of such stock to reimburse its treasury because of expenditures made for additions and betterments prior to January 31, 1923, and not capitalized, which expenditures are reported at \$2,211,040.40. These expenditures appear to have been temporarily financed through incurring current indebtedness and investing reserves and surplus earnings. Inasmuch as the company asks at this time to finance permanently only \$332,694.68 of the expenditures, it does not seem necessary to verify all of such expenditures. Enough of them have heretofore been verified, to warrant the granting of applicant's request.

*It is hereby ordered*, that Southern Counties Gas Company of California be and it is hereby authorized to use the remaining proceeds from the sale of the preferred stock authorized by Decision No. 9128, dated June 21, 1921, in excess of \$893,051.32 to finance in part its expenditures on capital account made prior to January 31, 1923.

*It is hereby further ordered*, that the time within which Southern Counties Gas Company of California may issue, sell and deliver the preferred stock authorized by Decision No. 9128, dated June 21, 1921, be and it is hereby extended to and including June 15, 1923.

*It is hereby further ordered*, that the order in Decision No. 9128,

dated June 21, 1921, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11749.

IN THE MATTER OF THE APPLICATION OF YOSEMITE NATIONAL PARK COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER, FREIGHT, EXPRESS AND BAGGAGE SERVICE BETWEEN EL PORTAL AND YOSEMITE VALLEY, GLACIER POINT, MARIPOSA GROVE OF BIG TREES, MATHER, HETCH HETCHY VALLEY, TAHOE AND EXCHANGE BUSINESS WITH YOSEMITE VALLEY RAILROAD COMPANY, HETCH HETCHY RAILROAD COMPANY, LAKE TAHOE RAILROAD AND TRANSPORTATION COMPANY.

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Application No. 8737.

Decided March 6, 1923.

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BY THE COMMISSION.

**ORDER.**

In this proceeding the Yosemite National Park Company, a corporation, applies to the Railroad Commission for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers, freight, express and baggage between Yosemite Valley points, Glacier Point, Mariposa Big Trees, El Portal, Hetch Hetchy, Tuolumne Meadows and Tahoe and certain intermediate points.

The points covered by the application herein are at the present time being served by applicant and have been for some time last past, as shown by tariffs on file with the Railroad Commission which were submitted under the provisions of section 5 of chapter 213, Statutes of 1917, as amended. The present application is made solely for the purpose of consolidating and blanketing the various operative rights now held by this applicant.

A considerable portion of the territory in which applicant operates is not subject to certificate of public convenience and necessity due to the fact that it is on federal government territory and in acting upon the present application, the Commission will grant a certificate of public convenience and necessity only in so far as it has jurisdiction. On its Tahoe run applicant does not propose to serve intermediate points located outside government territory, unless one of such intermediate points is located within the Yosemite National Park, and the present certificate will in no way authorize service between intermediate points on this route, both of which points are located outside of government reservations and within the State of California.

It appearing to the Commission that this is a matter in which a public hearing is not necessary and that the application should be granted:



The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Yosemite National Park Company, a corporation, of an automobile stage line as a common carrier of passengers, freight, express and baggage between points in the Yosemite Valley and Glacier Point, Mariposa Big Trees, El Portal, Hetch Hetchy Valley, Tuolumne Meadows and Tahoe and intermediate points as specifically listed in Exhibit "A" attached to the application herein, and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. Operation under this certificate shall be rendered during periods of the year, with respect to respective routes as shown under column entitled "Dates Effective" in Exhibit "A" attached to the application herein.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11750.

IN THE MATTER OF THE APPLICATION OF YOSEMITE NATIONAL PARK COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER, FREIGHT, EXPRESS AND BAGGAGE SERVICE BETWEEN BRICEBURG AND MARIPOSA.

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Application No. 8738.

Decided March 6, 1923.

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BY THE COMMISSION.

**ORDER.**

The Yosemite National Park Company, a corporation, applies for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers, freight, express and baggage between Briceburg and Mariposa and intermediate points, California.

Applicant proposes to operate one roundtrip three days per week and to use one White ten-passenger automobile in such service, rates to be charged as more specifically set out in Exhibit "A" attached to the application herein.

This applicant is at the present time engaged in extensive stage operation between Yosemite Valley and various points in this state and is experienced in the operation of automobile stage service and is unquestionably both financially and otherwise able to render an adequate and efficient service over the route herein proposed to be served.

We are, accordingly, of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Yosemite National Park Company, a corporation, of an automobile stage line as a common carrier of passengers, freight, express and baggage between Briceburg and Mariposa, and intermediate points; and

*It is hereby ordered*, that a certificate of public convenience and necessity be, and the same hereby is granted, subject to the following conditions:

1. Applicant shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with Exhibits "A" and "B" attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of March, 1923.

## DECISION No. 11760.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC  
WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE  
BONDS.

Application No. 8652.

Decided March 6, 1923.

*Hunsaker, Britt and Cosgrove, by John M. Clayton, for Applicant.*

BY THE COMMISSION.

## OPINION.

Baldwin Park Domestic Water Company asks permission to execute a mortgage or deed of trust and to issue and sell, at not less than 90 per cent of face value, \$80,000 of first mortgage 6 per cent serial bonds, for the purpose of acquiring lands, constructing additions, betterments and improvements and paying outstanding indebtedness.

A public hearing in this proceeding was held before Examiner Williams in Los Angeles on February 17, 1923. On February 23rd the Commission was advised of certain changes in the proposed mortgage or deed of trust. The matter is now ready for decision.

The record shows that Baldwin Park Domestic Water Company was organized on or about March 30, 1916, with an authorized capital stock of \$100,000 divided into 1000 shares of the par value of \$100 each, all shares being common. Pursuant to authority granted by the Commission, it acquired the properties of S. M. Walker, who was engaged in supplying water for irrigation, domestic and manufacturing purposes in and about the town of Baldwin Park, and has since continued to operate such properties. It appears that the utility serves approximately 400 consumers and that for the year ending December 31, 1922, its gross revenues were \$15,444.66; operating and other expenses \$9,372.89; and net profit, exclusive of depreciation, \$6,071.77.

The company now alleges that the growth in population and the increased demand for service necessitates the expenditure of about \$80,000 for additions, betterments and improvements and for the refunding of obligations. It reports that it must acquire additional water-bearing lands to supply districts above the level of the present supply and to provide an additional source of water when the wells now in use are temporarily out of service. Applicant has obtained an option to purchase a parcel of land suitable for this purpose, for \$400. At the hearing, however, S. M. Walker, applicant's president, testified that the company may not exercise its option to purchase this property, and that it is negotiating to purchase a different piece of land, larger and better suited for its purpose, for \$1,000.

Petitioner proposes to drill a twenty-inch well upon the land it will purchase, to equip and connect it with the existing system for which purposes the following expenditures are necessary:

Well pit to water, 180 feet deep-----	\$1,080 00
Drilling 20-inch well, 450 feet-----	2,700 00
450 feet of No. 8 double steel well casing-----	2,821 50
Three-ply starter, 120x48, 19½ feet long-----	268 51
Concrete tank foundation-----	2,500 00
Steel tank, capacity 1,283,180 gallons-----	13,000 00
Painting tank and roof-----	1,500 00
Stone concrete pump house-----	1,200 00
Installing pump, motor, starter-----	9,490 32
5280 feet of 12-inch steel pipe-----	5,808 00
Sixty new meters-----	3,000 00
One auto truck-----	800 00
Addition to warehouse-----	800 00
Preparation of map of system-----	500 00
Total-----	\$45,468 33

In addition to the foregoing expenditures, applicant reports that it will have to expend \$7,944.50 to improve its service by making enlargements of and additions to its system, and \$26,187.17 to refund outstanding indebtedness. The \$7,944.50 includes \$4,944.50 to be expended in replacing 10,430 feet of one-inch pipe with two and four-inch pipe, \$2,800 in overhauling two motors and two pumps and \$200 for drayage of materials. Testimony shows that the one-inch pipe to be replaced was acquired at an estimated original cost of \$3,229 and will for the most part be salvaged. Only the excess of the cost of the new property over the cost of that replaced should be charged to capital account. The difference between the original cost and the salvage value should be charged to applicant's reserve for accrued depreciation. The company reports that its reserve for accrued depreciation has been invested in its properties. As it now needs funds to make replacements, it may, in our opinion, use proceeds from the sale of its bonds, to reimburse its reserve on account of reserve moneys invested in additions and betterments. It follows that the money thus returned to the reserve for accrued depreciation must be used to pay the cost of replacing property, or in any event, kept in applicant's business. The item of \$2,800 to pay the cost of overhauling two pumps and motors, we believe to be an operating expense item and not one to be capitalized through the issue of bonds. The indebtedness to be discharged is alleged to have been incurred in paying for materials and supplies and labor, and consists of \$5,000 of short term 7 per cent notes, \$19,682.84 of open accounts payable, and \$1,504.33 for attorney's fees and expenses in connection with this proposed bond issue.

To obtain a portion of the moneys required for the foregoing purposes, applicant proposes to create a bonded indebtedness and to issue and sell, at not less than 90 per cent of face value, \$80,000 of first mortgage bonds. These bonds will bear interest at 6 per cent per annum, will be dated January 1, 1923, will mature in equal annual installments of \$5,000 on the first day of January of each of the years 1928 to 1943 inclusive, and will be callable at the option of the company upon any interest payment date after January 1, 1928, at 102 and accrued interest. The proposed mortgage securing the payment of the bonds will constitute a first lien on applicant's properties and will provide for a total issue of \$150,000 of 6 per cent bonds, of which \$80,000 are to be presently issued. The remaining \$70,000 may be issued from time to time in amount not to exceed in the aggregate 75 per cent of the expenditures made by the company subsequent to January 1, 1923, properly chargeable to capital account, for the acquisition of property, and the construction, completion, extension and improvement of its facilities. Originally the mortgage contained no earning restriction on the issue of the \$70,000 of bonds. The company has since the hearing advised the Commission, however, that it will insert a condition in the proposed mortgage providing that the \$70,000 of bonds may be certified by trustee only when the net earnings of the company, during the twelve months next preceding the date of application to the trustee for the certification of bonds, shall have been at least one and one-half times the interest on all the outstanding mortgage indebtedness plus the interest on the bonds proposed to be issued.

#### ORDER.

Baldwin Park Domestic Water Company having applied to the Railroad Commission for permission to execute a mortgage and to issue \$80,000 of first mortgage 6 per cent serial bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income;

*It is hereby ordered*, that Baldwin Park Domestic Water Company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as that filed in this proceeding and marked "Exhibit D," as amended by the changes filed with the Commission on February 23, 1923.

*It is hereby further ordered*, that Baldwin Park Domestic Water Company be and it is hereby authorized to issue and sell, at not less than 90 per cent of face value, plus accrued interest, \$80,000 of its first mortgage 6 per cent serial bonds for the purpose of financing in part the cost of making the additions, betterments and improvements and of

refunding the indebtedness referred to in this application and in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

(2) Applicant shall file with the Commission within thirty days after execution a certified copy of the mortgage it is herein authorized to execute.

(3) Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted to issue bonds and execute a mortgage will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$80, and will expire on December 15, 1923.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11761.

IN THE MATTER OF THE APPLICATION OF THOMAS HALBERT WILLIAMS, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE EXPRESS AND FREIGHT SERVICE BETWEEN FONTANA, RIVERSIDE, ARLINGTON, CORONA, CHINO, ONTARIO, UPLAND, SAN ANTONIO HEIGHTS, WALNUT, OTTERBEIN, CLAREMONT AND POMONA AND LOS ANGELES.

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Application No. 8438.

Decided March 6, 1923.

Supplemental Petition for Rehearing.

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*Kemp and Clewett*, by *H. S. Clewett*, for Applicant.

*R. E. Wedekind*, for Pacific Electric Railway Company.

*E. E. Bennett*, for Union Pacific System.

*M. Thompson*, for American Railway Express Company.

*A. T. Fletcher*, for Fletcher and Tremble (Service Motor Express).

*L. A. Kagarise*, in *propria persona*.

*Willis I. Morrison*, for Poultry Producers Association of Southern California.

BY THE COMMISSION.

OPINION UPON REHEARING.

Applicant petitioned for rehearing and modification of Decision No. 11468 of January 6, 1923, upon the ground that one of the present

carriers had stated to applicant after said decision that he was not prepared to satisfactorily render the special egg service proposed by applicant. Therefore, the prayer is that the original decision be modified to authorize service in additional territory.

A rehearing was therefore granted, and the matter further heard by Examiner Westover at Los Angeles.

It was shown at the latter hearing that L. A. Kagarise, operating as Keystone Express, withdrew all opposition to applicant's proposed service in territory served by him, covering Ontario, Upland, Claremont, Pomona and Walnut; provided the proposed service be limited, as it was in the original order, to the transportation of eggs and poultry products to Los Angeles, and of poultry feed and supplies back to the ranches of producers.

It was also shown that present service to egg producers in and about Corona is not satisfactory, and that the special poultry service proposed may properly be extended to Corona and vicinity.

#### ORDER.

A further public hearing having been held on the above entitled application after granting of petition for rehearing, the matter being again submitted, and now ready for decision;

*It is hereby ordered*, that the order herein in Decision No. 11468 of January 6, 1923, be and it is hereby revoked.

The Railroad Commission hereby certifies that public necessity and convenience require that Thomas Halbert Williams operate a service for the transportation of eggs and poultry supplies between Los Angeles, Fontana, Riverside, Arlington. Corona, Ontario, Upland, San Antonio Heights, Claremont, Pomona, Walnut, Otterbein, and that portion of the city of Chino lying beyond the area bounded by Walnut avenue, Riverside drive, Fifteenth street, Chino avenue, Central avenue, Shaffer avenue and East First street; also in a zone extending a half mile outside the city limits of all of the cities herein above named, and a zone a half mile on each side of the following named roads to be traveled in serving the above named towns, to wit: Garey avenue, Foothill boulevard, Tenth street, San Antonio avenue, Mountain avenue, Euclid avenue, Central avenue, Riverside drive, Rosena avenue, Colton avenue, Crestmore road, River boulevard between Ontario and Riverside, Magnolia avenue and Auburndale road. Applicant may assemble in Pomona eggs from territory he is herein authorized to serve, and transport them thence to Los Angeles via Valley boulevard and Mission road.

The authority herein contained is granted upon the following conditions:

1. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service aban-

done unless the written consent of the Railroad Commission thereto has first been secured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

3. *It is hereby ordered*, that applicant shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

4. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11762.

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ COUNTY UTILITIES, A CORPORATION, FOR AN ORDER FIXING AN ANNUAL MINIMUM CHARGE FOR ELECTRIC SERVICE AT BOULDER CREEK AND LORENZO IN SANTA CRUZ COUNTY, CALIFORNIA.

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Application No. 7386.

Decided March 6, 1923.

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*J. C. Hughes*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Santa Cruz County Utilities asks the Commission to fix just and reasonable electric rates throughout the entire territory served by it and to so design the rates thus fixed that their application in Brookdale and vicinity, where the service is largely of a seasonal nature, and in Boulder Creek and vicinity, where the service is more or less uniform throughout the year, will result in equitable charges for both classes of consumers.

A public hearing in this matter was held before Examiner Satterwhite at Brookdale, at which time evidence was introduced relative to the company's rates, capital and operating expenses.

This Commission, in its Decision No. 9760 in Application No. 6254, dated November 17, 1921, reviewed the rates of applicant and from the evidence therein estimated the capital, revenue and expense of the company for the year 1921. Table No. 1 following sets forth a comparison



of the Commission's estimate at that time with the operating capital, revenue and expense of the company as reported to the Commission in this proceeding:

TABLE No. 1.

## Santa Cruz County Utilities.

## Operating Capital, Revenue and Expense, the Year 1921.

	1921 C. R. C. estimate	1921 Applicant's report
Average capital .....	\$9,187 00	\$9,187 00
Gross revenue .....	5,935 00	5,795 67
Operating expense:		
Production (purchased) .....	\$2,528 00	\$2,484 00
Distribution .....	1,830 00	2,945 76
General and miscellaneous .....	200 00	964 19
Taxes .....	398 00	410 83
Subtotal .....	\$4,956 00	\$6,804 78
Depreciation .....	277 00	277 00
Total operating expense .....	\$5,233 00	\$7,081 78
Net return .....	702 00	1,286 11*
Per cent return on average capital .....	7 65	14*

\* Deficit.

From a study of data submitted and the investigations of the Commission's engineers carried on in this case, it appears that the expenses incurred during 1921 were far in excess of those estimated for that year by the Commission. The evidence herein indicates, however, that the large expense of 1921, which excluded certain professional charges incidental to the previous hearing, was due to certain actions on the part of the company resulting in excess expense. The company retained a former superintendent for five months at a salary of \$200 per month contrary to its program as then set forth, and employed additional help at a combined cost of approximately \$1,000, an amount considerably in excess of incidental expenditures that might be reasonably expected in connection with the normal development of applicant's business. These excess expenses can be justified only as deferred maintenance and inefficiency of management.

An analysis also indicated that applicant does not correctly segregate charges between capital and operating expenses, and that some of the charges, not unreasonable in themselves, should be included in capital rather than in expense.

Applicant experienced an increase in business of 17 per cent in 1921, and it appears that for the year 1923 a reasonable increase in business can be expected to continue. From the evidence in this proceeding it would appear that the following represents a reasonable estimate of capital, revenue and expense under existing rates for applicant's entire business for the year 1923:

## SANTA CRUZ COUNTY UTILITIES.

Estimated Capital, Revenue and Expense, 1923.

	1923 C. R. C. estimate
Average capital .....	\$12,000 00
Gross revenue .....	7,550 00
Operating expense:	
Production (purchased) .....	3,230 00
Distribution .....	2,640 00
General and miscellaneous .....	200 00
Taxes .....	525 00
Subtotal .....	\$6,595 00
Depreciation .....	370 00
Total operating expense .....	\$6,965 00
Net return .....	585 00
Per cent return on average capital .....	4.9

Applicant is entitled to a reasonable return if it gives good service. Certain adjustments in its rates should at this time be made to eliminate the discriminatory conditions existing between Boulder Creek and Brookdale. Under the rates in Boulder Creek seasonal service if rendered under monthly minimum charge as now provided does not adequately compensate the utility for the service rendered. On the other hand, a flexible rate should be made available for Boulder Creek in case seasonal service develops. Applicant has no heating or cooking rate, although there appears to be some possibility of a development of this service, and it is advisable to make effective rates for cooking and heating at this time.

It would not be expected, under the conditions existing in the territory served by Santa Cruz County Utilities that during the coming year a full return can be had upon the Company's business except with the strictest economy and the rendering of adequate service. The rates herein fixed are designed to equitably divide the charges and encourage the development of business on the company's system.

**ORDER.**

Santa Cruz County Utilities, having applied for a determination of just and reasonable electric rates, hearings having been held, the matter submitted and now ready for decision:

The Commission hereby finds as a fact that the electric rates of the Santa Cruz County Utilities are unjust and unreasonable in so far as they differ from the rates herein fixed, and that the rates herein fixed are just and reasonable rates to be charged for service rendered for the year 1923 and thereafter unless otherwise determined or approved by the Commission.

Basing its order on the foregoing finding of fact and the finding of fact set forth in the opinion preceding this order;

*It is hereby ordered*, that Santa Cruz County Utilities be and the same is hereby ordered to charge and collect the following rates for electric service rendered on and after April 1, 1923, for service billed monthly, and for all service rendered on and after January 1, 1923, for service billed seasonally:

**SCHEDULE L-1.***General lighting service.*

Applicable to all lighting service and small motor service.

*Territory.*

Applicable to all territory served by the company.

*Rate.**Seasonal service.*

First 300 kilowatt hours per meter per year-----	10c per kilowatt hour
Next 700 kilowatt hours per meter per year-----	9c per kilowatt hour
All over 1000 kilowatt hours per meter per year-----	8c per kilowatt hour

*Monthly service.*

First 30 kilowatt hours per meter per month-----	10c per kilowatt hour
Next 70 kilowatt per meter per month-----	10c per kilowatt hour
All over 100 kilowatt hours per me ter per month-----	8c per kilowatt hour

*Minimum charge.**A. Seasonal service.*

1. The annual minimum bill will be \$14 per meter per year, payable in two installments as follows:

- (a) First installment, \$7, due and payable on April 1st of each year.
- (b) Second installment, \$7, due and payable on July 1st of each year.

2. Where annual minimum bill is paid in one installment on or before May 1st of each year it will be subject to a discount of 50 cents.

*B. Monthly service.*

Consumers electing to take service monthly throughout the entire 12 months will be charged a monthly minimum bill of \$1.10.

**SCHEDULE C-1.***General heating, cooking and combination service.*

Applicable to general domestic cooking, heating, and/or water heating service.

*Territory.*

Applicable to all territory served by the company.

*Rate.**A. Heating, cooking and/or water heating service.*

First 150 kilowatt hours per meter per month----	4.5c per kilowatt hour
All over 150 kilowatt hours per meter per month--	3.5c per kilowatt hour

*B. Combination lighting, with heating, cooking and/or water heating service.*

(1) Applicable to residence, flats, or apartments of 8 rooms or less.

First 30 kilowatt hours per meter per month-----	(*)
Next 150 kilowatt hours per meter per month-----	4.5c per kilowatt hour
All over 180 kilowatt hours per meter per month---	3.5c per kilowatt hour
(*) Charge for first 30 kilowatt hours of the effective lighting schedule.	

*Minimum charge.*

Seasonal service (payable one-half April 1st, one-half July 1st).

First 5 kilowatts or less of heating, cooking and/or water heating capacity ----- \$30 00 per year

All over 5 kilowatts of heating, cooking and/or water heating capacity, per kilowatt-----	\$6 00 per year
Monthly service (where consumer elects to pay monthly).	
First 5 kilowatts or less of heating, cooking and/or water heating capacity -----	\$2 50 per month
All over 5 kilowatts of heating, cooking and/or water heating capacity, per kilowatt-----	50 per month

*Special condition.*

Rate "B" applies only where consumer installs and uses cooking, heating and/or water heating appliances other than lamp socket devices of at least 3 kilowatt capacity.

*It is hereby further ordered*, that Santa Cruz County Utilities, before April 1, 1923, file with this Commission the schedules of rates set forth herein.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11763.

IN THE MATTER OF THE APPLICATION OF C. A. SCHLAGETER AND G. C. SCHLAGETER, COPARTNERS, DOING BUSINESS UNDER THE NAME OF MARIPOSA AUTO STAGE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE PASSENGER SERVICE BETWEEN MERCED, YOSEMITE VALLEY AND INTERMEDIATE POINTS.

Application No. 8349.

IN THE MATTER OF THE APPLICATION OF MADERA-YOSEMITE-BIG TREES AUTO COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (IF NECESSARY) TO OPERATE AN AUTO STAGE, PASSENGER AND BAGGAGE SERVICE BETWEEN MERCED AND YOSEMITE VALLEY AND INTERMEDIATE POINTS.

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Application No. 8492.

Decided March 6, 1923.

*Devlin and Brookman*, by *Douglas Brookman*, for Applicant in Application No. 8349 and for Protestants to Application No. 8492.

*Oliver Dibble*, for Applicant in Application No. 8492 and for Protestants in Application No. 8349.

*N. K. Landram*, for Yosemite Valley Railroad Company, Protestants to both Applications.

*W. C. Ring*, representing T. J. Cronin, for Madera-Raymond-Wawona Stage.

BY THE COMMISSION.

OPINION.

These two matters, heard by Examiner Eddy, were consolidated for hearing and will be disposed of in one report.

In the Schlageter application, filed on October 23, 1922, a certificate of public convenience and necessity is sought to operate automobile passenger stages between Merced and the Yosemite Valley over a route between these points which is now, and for several years past has been, traversed by the stages of the Madera-Yosemite-Big Trees Auto Stage

Company. The latter company will be hereinafter referred to as the "Madera company," and the line now operated by the Schlageters between Merced and Mariposa as the "Mariposa company." The application sets forth that the Madera company is operating over the route in question between Merced and the Yosemite National Park boundary without authority from us and therefore in violation of the statutes. This allegation was made as the result of developments at the hearing on October 17, 1922, in Case No. 1790. It there appeared that for some time prior to July 1, 1922, the Schlageters held the contract for carrying the mails between Merced and Mariposa, the latter being situated some two miles off the main highway from Mormon Bar, an intermediate point on the through route of the Madera company between Merced and Yosemite Valley, and on March 2, 1920, were granted a certificate of public convenience and necessity (Decision No. 7207) to operate an automobile stage line between those points. When the mail contract was lost by them on July 1, 1922, to the Madera company, the former, nevertheless, continued to conduct a passenger service over the route, serving also intermediate points, including Mormon Bar. The latter settlement, however, was not served daily but only when passengers or freight traffic were to be had, and upon call. On July 28, 1922, the Mariposa company brought before us a formal complaint in which it was alleged that the Madera company since taking over the mail contract on July 1, had been transporting passengers between Merced and Mariposa over the route traversed by the Mariposa company without having secured from us a certificate of public convenience and necessity. The case above referred to was heard on October 17, 1922, and decided on January 9, 1923, Decision No. 11487. In that decision, which should be referred to for a more complete history of the situation now before us, the Madera company was ordered to discontinue its local operations between Merced and Mariposa, but was permitted to serve Mormon Bar as a part of its through service between Merced and Yosemite Valley.

It appears, as later explained, that the Madera company, during the latter part of 1916 and beginning about May 10, 1917, was operating a service from May to November between Merced and Yosemite Valley. A new highway between these points by way of Mormon Bar was under construction, and some time in 1916 was completed to a point in the vicinity of Cathay postoffice about twenty-six miles from Merced and twelve miles from Mormon Bar. The entire road as constructed could not then be used, and in order to reach Mormon Bar, a detour to the left was made at a point about 24 miles from Merced. The so-called Cathay Valley road was then followed to Mt. Bullion where a right-hand turn was made through Mariposa, the projected highway again being reached at or near Mormon Bar, about two miles from Mariposa. Upon the

completion of the highway to the latter point in 1918, the route was again changed so as to follow the course of the highway between Cathay and Mormon Bar, instead of the road via Mt. Bullion and Mariposa. These changes in route were unauthorized by us and our order in Case No. 1790 directed the Madera company by proper application to "clear up the present cloud upon its operative rights," resulting from these arbitrary and unauthorized changes in its regular route. Prior to the date of that order, and on December 12, 1922, the Madera company, because of doubts expressed at that hearing as to its operative rights and because of the filing of the Schlageter application on October 23, itself filed an application with us for a certificate of public convenience and necessity, "if necessary," to operate between Merced and the boundary of Yosemite National Park the service which it has been conducting for some years. The two applications were set for hearing on the same date, two hearings were had and the matters were argued orally before the presiding examiner.

At the outset we are called upon to determine whether the Madera company was, prior to May 1, 1917, actually engaged in operating in good faith an automobile stage passenger service between Merced and Yosemite Valley over the routes in question. Seldom are we confronted with testimony of such a contradictory nature as is here found. Certain witnesses testified that the Madera company was not operating a regular schedule between Merced and Yosemite via Mariposa prior to May 1, 1917; other witnesses, equally reliable and no less positive, testified that the Madera company was so operating. A careful analysis of all the testimony leads to the conclusion that the Madera company operated into Yosemite Valley from Fresno until some time in July, 1916, when the condition of the highway heretofore referred to made it possible for the stage company to transfer its operations from Fresno to Merced. It seems clear that during the latter part of the 1916 season some of, if not all, the stages of the Madera company operated into Yosemite Park, via Merced, the Cathay Valley Road, Mt. Bullion and Mariposa, detouring from the new highway at a point about 24 miles from Merced, as previously explained. The record further shows that it was the intention of the company to operate its cars over this route during the 1917 season, beginning on May 1 of that year, but that the condition of the road due to snow blockades did not permit the actual operation of the stages to commence until May 10. Prior to May 1, however, employees of the Madera company were engaged in clearing the road of snow so as to make it passable for the stages.

We are therefore confronted with this situation: The Madera company has for years been engaged in handling passengers into Yosemite Valley, at first by horse-drawn vehicles from Raymond, and later by automobile stages out of Madera and Fresno. It has operated over the

entire route in controversy since the late summer of 1916, except for the detours mentioned. The road leading from Wawona to the valley by way of Inspiration Point, all but six miles of which lies within the park boundaries, was built by its affiliated company, the Yosemite Stage and Turnpike Company, at a cost of \$100,000, and later taken over by the government. The two companies own equipment valued at \$160,000; the Madera company alone owns twenty Pierce-Arrow cars. In 1922 about 8200 passengers were handled by it to and from the park and about 800 more to Miami, Wawona and other intermediate points. Large sums of money have been spent in advertising the service and route, contracts entered into with tourist agencies, through ticketing arrangements have been made with the railroads, hotels and lunch stations provided and permission secured from the government to operate into the park proper from Wawona. The service has been conducted without serious accident of any kind and without complaint from the public. The service is seasonal and the large majority of passengers are tourists with a limited time at their disposal. The facilities of a stage company engaged in this business must therefore be at all times adequate to handle all passengers who present themselves and the character of the traffic is such as to demand high class equipment, properly maintained, and an organization accustomed to and familiar with the work. These requirements are met by the company now operating over the route. Shall we therefore, merely because of a possible technicality in its operative rights—a matter not brought into question at all until a few months ago—wipe out this investment and turn over to another the fruits of years of labor and the expenditure of vast sums of money in providing facilities for handling the passenger travel via this route into the park? The determining factor with us is public convenience and necessity—the mere desire of an applicant to operate a particular service, even though coupled with the financial and business ability to operate it—is not controlling. The Mariposa company owns no equipment suitable for this service and now has not authority from the National Park service to operate from the park boundary, about six miles beyond Wawona, into the park proper. If granted the certificate, it would, therefore, be required, so far as this record indicates, to turn its passengers over to the Yosemite Stage and Turnpike Company at some point at or near the park boundary for transportation beyond. Manifestly this arrangement could but result in great inconvenience to the public. Had the Madera company since 1917 conducted its operations in such a manner as to warrant the assumption that it was acting in disregard of the law and our orders we would be justified under the circumstances here shown to exist now to withhold from it permission to operate over the desired route. There is, however, no such showing. Neither the equities of

the situation nor the requirements of the Public Utilities Act require us under the circumstances to take any such drastic action. If all the testimony with respect to operations of the Madera company prior to May 1, 1917, be disregarded, upon which testimony that company relies for a finding as to its operative rights and its application be considered as of the date of filing, substantial justice and the evidence of record clearly warrant a finding in its favor. That company is able adequately to handle the passenger traffic now moving over this route and public convenience and necessity are not shown to require the operation of another line by the Mariposa company.

The application of the Mariposa company will be denied, and a certificate of public convenience and necessity to operate an automobile stage line between May 1st and November 15th of each year for the transportation of passengers, baggage and express between Merced and the boundary of Yosemite National Park via Mormon Bar, Wawona direct or via Miami Lodge and the Mariposa Big Trees will be granted to the Madera-Yosemite-Big Trees Auto Company.

No authority is hereby granted to transport baggage, express or local passengers between Merced and the point on the highway known as Mormon Bar or between Merced and Mariposa.

#### ORDER.

A public hearing having been held on the above entitled applications, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Madera-Yosemite-Big Trees Auto Stage Company of an automobile stage line between May 1st and November 15th of each year, as a common carrier of passengers, baggage and express between Merced and the boundary of Yosemite National Park via Mormon Bar, Wawona direct or via Miami Lodge and the Mariposa Big Trees, and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. No passengers, baggage or express, whatsoever, shall be carried locally between Merced and the point on the highway known as Mormon Bar or between Merced and Mariposa.

2. Applicant Madera-Yosemite-Big Trees Auto Stage Company shall file within a period of not to exceed thirty (30) days from date hereof its written acceptance of the certificate herein granted; shall file, in duplicate, tariff of rates and time schedules, within a period of not to exceed forty (40) days from date hereof, such tariff of rates and time schedules to be identical with those filed as Exhibits "A" and "B" attached to its application herein; and shall commence operation



of the service herein authorized within a period of not to exceed sixty (60) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant Madera-Yosemite-Big Trees Stage Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

*It is hereby further ordered*, that Application No. 8349 be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of March, 1923.

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DECISION No. 11764.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES F BONDS IN THE AMOUNT OF FOUR MILLION DOLLARS PAR VALUE.

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Application No. 8740.

Decided March 6, 1923.

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*Paul Overton*, for Applicant.

MARTIN, *Commissioner*.

**OPINION.**

In this application the Railroad Commission is asked to make an order authorizing Los Angeles Gas and Electric Corporation to issue and sell, at not less than 94.25 per cent of their face value plus accrued interest, \$4,000,000 of its Series "F" 5½ per cent general and refunding mortgage gold bonds for the purpose of reimbursing its treasury and financing the cost of new construction.

Pursuant to authority granted by the Commission, applicant, as of March 1, 1921, executed its general and refunding mortgage to secure the payment of an authorized issue of \$75,000,000 of bonds issuable in series, which bonds with respect to each series, may be of such denominations, may be issued and dated at such time or times, may bear such rate of interest, may mature at such time or times and may be subject to such terms of redemption or conversion as the directors of the company may determine.

Applicant heretofore has been authorized to issue and sell \$14,500,000 of such general and refunding bonds, consisting of \$2,500,000 of Series "A" 7 per cent bonds due March 1, 1926; \$3,500,000 of Series "B" 7 per cent bonds due March 1, 1931; \$1,500,000 of Series "C" 7

per cent bonds due June 1, 1931; \$2,000,000 of Series "D" 6 per cent bonds due March 1, 1942 and \$5,000,000 of Series "E" 5½ per cent bonds due June 1, 1947. The company has now sold, subject to their issue being authorized by the Commission, \$4,000,000 of Series "F" 5½ per cent bonds due March 1, 1943.

The company estimates (Exhibit "D") its net construction expenditures for 1923 at \$8,692,046. This amount is allocated by applicant as follows:

Gas works, including one seven-million cubic foot generator, purifiers with a capacity of ten-million cubic feet; two one-million cubic feet per hour compressors; one ten-million and one six-million cubic foot holders; four blowers with a combined capacity of two and one-half million cubic feet per hour, together with auxiliary equipment and buildings	\$2,588,275
Electric works, including one 17,500 kilowatt turbo-generator and auxiliary equipment	1,577,775
Gas distributing system	2,826,330
Including 200 miles commercial mains.	
11½ miles pressure mains.	
20,000 gas services.	
27,500 gas meters.	
14,000 gas regulators.	
Electric distributing system, including	
11,000 electric services and	
12,000 electric meters	950,540
Miscellaneous	375,726
Overhead expense	373,400
Grand total estimated net increase in capital accounts	\$8,692,046

It is of record that during 1922 applicant laid 247.35 miles of gas mains, 22,301 gas services and set 13,653 gas regulators and 31,637 gas meters. The increase in electric meters for 1922 is reported at 12,875. The actual construction expenditures for 1922 exceeded the 1923 estimate.

The testimony of W. E. Houghton, applicant's controller, shows that to February 1, 1923, applicant expended on capital account the sum of \$3,106,309.81 against which no bonds have been issued. These construction expenditures and similar expenditures subsequent to February 1, have in part been financed through the sale of preferred stock and through incurring current indebtedness and temporarily investing reserves and surplus earnings. While the \$3,106,309.81 will be used as a basis to have bonds certified, it is of record that all the proceeds realized from the sale of the \$4,000,000 of bonds will be used to finance construction expenditures. The current indebtedness incurred on account of construction expenditures will be paid and the remainder of the proceeds used to finance part of expenditures reported in Exhibit "D".

The company has an authorized capital stock of \$30,000,000 divided into \$10,000,000 of 6 per cent preferred stock and \$20,000,000 of com-

mon. Of these amounts there was outstanding on February 1, 1923, \$5,766,900 of the preferred and \$10,000,000 of the common stock; a total of \$15,766,900. Its bonded debt in the hands of the public on the same date was shown as \$23,905,500 and its notes payable as \$200,000.

I herewith submit the following form of order:

#### ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell at not less than 94.25 per cent of face value plus accrued interest, \$4,000,000 of its Series "F" 5½ per cent general and refunding mortgage gold bonds due March 1, 1943, for the purpose of financing in part the construction expenditures described in Exhibit "D" filed in this proceeding and referred to in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures as are properly chargeable to capital account, as defined by the uniform classifications of accounts prescribed by this Commission may be financed through the sale of the bonds herein authorized.

2. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted to issue bonds will become effective upon the payment by applicant of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,500 and will expire on October 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of March, 1923.

## DECISION No. 11767.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO,  
IN THE STATE OF CALIFORNIA. FOR PERMISSION TO CON-  
STRUCT AND MAINTAIN A PUBLIC HIGHWAY CROSSING AT  
GRADE OVER THE RIGHT-OF-WAY AND TRACKS OF THE ATCHI-  
SON, TOPEKA AND SANTA FE RAILROAD AT J. B. GALLOWAY  
ROAD IN SAID COUNTY.

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Application No. 8322.

Decided March 9, 1923.

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*R. C. Wakefield*, for Applicant.

*E. E. Ball*, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

## OPINION.

This is an application of the county of Fresno for permission to construct a public road across the tracks of The Atchison, Topeka and Santa Fe Railway Company in the northwest quarter of section 12, township 15 south, range 20 east, M. D. B. and M. at Oleander station.

A public hearing was held on this application before Examiner Satterwhite in Fresno, December 13, 1922.

It appears that the J. D. Galloway road is a public road one-half mile long in the county of Fresno, running easterly and westerly approximately along the center line of the northwest quarter of section 12, and that access between the two portions of this road is now actually available to the public by means of a private crossing about 150 feet southerly from the point of the proposed crossing.

The Oleander depot is located at the proposed crossing on the west side of the track. On the east side of the railroad and south of the proposed crossing are the various packing and warehouse facilities for the shipment of fruit and agricultural products. The team track facilities of the railroad, together with the freight platform for less than carload shipments is located west of the track, as is also the store and post office of the community.

The John D. Galloway road even if connected by the public crossing would be only one-half mile in length extending from Maple avenue, a north and south road along the center of section 12 to Cedar avenue, a north and south road along the westerly line of this section. Oleander is in a highly developed agricultural territory, devoted largely to the cultivation of grapes and deciduous fruits. The products are moved from all directions to the packing houses located on the east side of the track and the primary object of the proposed crossing is to give a more satisfactory access to these packing houses for that traffic originating west of the track than is now afforded by the present private crossing. This private crossing is so located as to be quite hazardous, the view being seriously obstructed in all directions except one.

Evidence shows that there has been one serious accident at this crossing and other less serious accidents in addition to numerous near accidents. The present private crossing is over four tracks, the main line, passing track, packing house track and team track, and the proposed crossing would also cross these same four tracks. But the view at the proposed crossing would be materially improved in two directions except at such times as cars were standing close to the crossing on the team track or packing house track.

The evidence shows that public necessity requires a more satisfactory means of access from the west to the packing houses, but the railroad seriously objects to the installation of the crossing as proposed by the county. The Santa Fe proposes, as a substitute for the crossing, that a road be constructed along the easterly side of the railroad right of way between Lincoln avenue, a through east and west street along the north line of section 12, and Clay street, a through east and west street along the center line of section 12, so that access from the west to shipping facilities located east of the track may be had by using the existing crossings at Lincoln and Clay avenues. Inasmuch as Lincoln avenue crosses only the main line of the railroad and Clay avenue crosses only three tracks and since the conditions of physical view are less objectionable at these locations than at the proposed crossing, there is evidently considerable merit in the suggestion of the railroad.

The representative of the railroad stated that the Santa Fe would be willing to grant the county a forty (40) foot strip of land along the easterly side of their right of way and build a road thereon if, thereby, it could avoid the hazard incident to the crossing at Oleander station. This offer on the part of the railroad represents a very real concession as the right of way of a forty (40) foot strip a half-mile long requires over an acre of quite valuable land. This offer, therefore, must be regarded as indicating that the railroad would consider itself seriously damaged by the construction of this proposed crossing.

We are convinced that the solution offered by the railroad would relieve a greater part of the necessity for the construction of the crossing and the relatively small public inconvenience that would result to the remaining traffic does not justify the very considerable hazard that would be incident to the construction of this crossing. Although the county indicated that it considered the proposal of the railroad an unsatisfactory solution of its needs, we believe, that this plan is feasible and that it should be carried out. This application therefore should be dismissed without prejudice, but should the railroad fail to carry out its suggestion of providing the county with the means of access to the packing house facilities from Lincoln avenue and Clay avenue along the east side of the track, the county would then be justified in

again making an application for this crossing. The existing private crossing just south of the Oleander depot should, of course, be closed to public travel upon the completion of the proposed road along the easterly side of the railroad right of way.

#### ORDER.

The board of supervisors of the county of Fresno, having made application for permission to construct the John D. Galloway road at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company, a public hearing having been held, the Commission having been apprised of the fact and the matter being under decision and ready for submission,

*It is hereby ordered*, that the above application be and it is hereby denied without prejudice.

Dated at San Francisco, California, this ninth day of March, 1923.

#### DECISION No. 11771.

IN THE MATTER OF THE APPLICATION OF LOUIS E. SMITH AND F. W. RAMSEY, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SMITH AND RAMSEY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE, FOR THE TRANSPORTATION OF PERSONS AND PROPERTY FOR COMPENSATION, BETWEEN KLAMATH FALLS, OREGON, AND SUSANVILLE, CALIFORNIA, VIA ALTURAS, CALIFORNIA.

Application No. 8442.

Decided March 12, 1923.

*James A. Pardee*, for Applicants.

*Sanborn, Roehl and Smith*, by *Delancy C. Smith*, for Nevada-California-Oregon Railway Company and American Railway Express Company, Protestants.

*J. M. Fulton*, for Southern Pacific Company, Protestant.

*E. F. Auble*, for Modoc County Development Board, Protestant.

*G. M. Kemble*, for Alturas-Bieber Stage Line, Protestant.

*Grover C. Julian*, for Geo. B. Long and for David S. Mitchell (Susanville-Bieber Stage Line), Protestants.

BY THE COMMISSION.

#### OPINION.

Applicants herein ask authority to operate stage service as common carriers of passengers, baggage and express between Susanville, California, and Klamath Falls, Oregon, serving as intermediate points in California Termo, Madeline, Likely, Alturas and Canby, the first four of which are stations on the Nevada-California-Oregon Railway. Canby is twenty-three miles northwest of Alturas, toward Klamath Falls.

A public hearing was held upon the application by Examiner Westover at Susanville.

It appears from the testimony that the territory between Susanville and Termo, and between Alturas and Canby, the last station in Cali-

fornia on the proposed route, is very sparsely settled with but little business possible of development. Apparently the principal travel in the territory is between Susanville, the county seat of Lassen County, and Alturas, the county seat of Modoc County. Travel between Alturas and all points on the Nevada-California-Oregon Railway and Susanville is now well served by the latter line and stages of Geo. B. Long between Wendel, the southern terminus of the Nevada-California-Oregon Railway, and Susanville, recently authorized; close connection being made at Wendel.

The running time, present and proposed, is approximately the same; the schedule proposed does not appear to offer any improvement, and the proposed and present fares are the same.

It appears that the Nevada-California-Oregon Railway is now operated at a loss and that any loss of passenger revenue will increase its deficit and jeopardize its service. It is operated throughout the year, while applicants propose only a seasonal operation "from about May 1st to November 1st." Applicants failed to show more than a desire to operate, not having made sufficient investigation to make an estimate of cost of operation or probable gross revenue.

#### ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby certifies that public necessity and convenience do not require the operation by applicants of a stage service between Susanville and Klamath Falls, serving Termo, Madeline, Likely, Alturas and Canby as intermediate points in California.

*It is hereby ordered*, that the above application No. 8442 be and it is hereby denied.

Dated at San Francisco, California, this twelfth day of March, 1923.

#### DECISION No. 11772.

IN THE MATTER OF THE APPLICATION OF MADERA ELECTRIC WATER COMPANY FOR AN ORDER AUTHORIZING IT TO DISCONTINUE THE FURNISHING OF WATER IN THE CITY OF MADERA AND VICINITY AND FOR THE SALE OF THE PROPERTY DEVOTED THERETO.

Application No. 8581.

Decided March 12, 1923.

*Murray Bourne*, attorney for Applicant.

BY THE COMMISSION.

#### OPINION.

Madera Electric Water Company, a public utility water corporation, engaged in the business of supplying water for domestic and general

uses in the city of Madera, Madera County, makes application as above entitled to the Railroad Commission for authority to discontinue the service of water to its consumers.

A public hearing was held in this matter in Madera on February 27, 1923, before Examiner Satterwhite, of which all interested parties were duly notified and given an opportunity to be present and be heard.

No protestants appeared at the hearing and no objections to the granting of this application have been filed.

From the evidence, the business of applicant has been decreasing for a number of years by reason of the competition of the Madera municipal water works, the distributing pipe mains of which in general parallel those of applicant. Many of applicant's former consumers have now become consumers from the municipal system with the result that during the past few years the revenues from water sales have been insufficient in amount to meet even its operating expenses and depreciation, without providing any return on the investment.

Applicant owns no wells or other source of water supply. Its plant consists of a pipe distributing system and obtains its water supply from the Madera water plant of San Joaquin Light and Power Corporation, a public utility also supplying water in this community. During 1922 applicant had about 49 consumers, and at the date of the hearing about half of these had been taken over by the said municipal system. The superintendent of the municipal system testified that the city is able and willing to assume service to all of applicant's consumers as they apply for same.

The application herein was amended at the hearing to include the request that, following the granting of authorization to discontinue the service of water to its consumers, Madera Electric Water Company be authorized to cease operating as a public utility water corporation and thereafter to sell or otherwise dispose of its property heretofore devoted to public utility uses.

After careful consideration of all the evidence it appears that to authorize the discontinuance of service to applicant's present consumers as requested herein will not unduly inconvenience or burden them since they are enabled immediately to receive adequate service of water from the municipal water system operated by the city of Madera, which serves the same territory.

#### ORDER.

Madera Electric Water Company having made application to the Railroad Commission is entitled above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity



do not require that Madera Electric Water Company continue to operate its public utility water system in the city of Madera.

And basing its order on the foregoing finding of fact and on the other statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, by the Railroad Commission of the State of California that Madera Electric Water Company be and it is hereby authorized to discontinue service of water from the water system owned by it and serving water to certain consumers in the city of Madera, Madera County, and to cease its operations as a public utility, provided that applicant files with this Commission a certified statement to the effect that each and every consumer attached to its system has been given thirty (30) days' written notice of applicant's intention to discontinue water service, and also that all consumers have been advised that they at once make application to the city of Madera for service from the municipal water works or otherwise arrange for water service; and further, that when service has been discontinued to all consumers and they all have been provided with another satisfactory water supply, a certified statement to that effect be also filed.

*It is hereby further ordered*, that Madera Electric Water Company be and it is hereby authorized to sell or otherwise dispose of the property used in the conduct of its public utility water operations in Madera when and after such time as it has complied with all the conditions of this order as above specified.

Dated at San Francisco, California, this twelfth day of March, 1923.

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DECISION No. 11773.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING IT TO DISCONTINUE THE FURNISHING OF WATER IN THE CITY OF MADERA AND VICINITY AND FOR THE SALE OF THE PROPERTY DEVOTED THERETO.

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Application No. 8582.

Decided March 12, 1923.

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*Murray Bourne*, for Applicant.

BY THE COMMISSION.

**OPINION.**

San Joaquin Light and Power Corporation, which owns and operates a public utility water plant furnishing water for domestic and general uses in the city of Madera, Madera County, makes application to the Railroad Commission as entitled above, for authority to discontinue the service of water to its consumers in that community. A public hearing was held in this matter before Examiner Satterwhite at Madera on February 27, 1923, of which all interested parties were notified and

given an opportunity to appear and be heard. No protestants appeared at the hearing, nor were any objections to the granting of this application filed.

Applicant's water plant at Madera consists of two groups of wells with pumping equipment for each, a 25,000 gallon wooden regulating tank and approximately 19,500 lineal feet of pipe distributing mains.

The evidence shows that applicant's water business had gradually decreased during past years by reason of the competition of the water works owned and operated by the city of Madera, whose pipe distribution system in general parallels that of applicant. During the year 1922 applicant served only 19 consumers, and the financial statement filed at the hearing shows that for the past four years the revenues from water sales were insufficient to meet even the maintenance and operation expenses, with no allowance for a depreciation annuity or interest return on the investment.

The superintendent of the municipal water works testified that the city is able and willing at once to assume service of water to all of applicant's consumers who may apply for same.

At the hearing the application herein was amended to include the request that the applicant be authorized to cease operating its Madera water plant as a public utility and thereafter to sell or otherwise dispose of its water supply property in Madera which had been devoted to the service of its consumers.

After careful consideration of all the evidence in this proceeding we conclude that the present consumers of applicant's Madera water plant can conveniently receive adequate service and supply of water from the municipal plant operated by the city of Madera and covering the same territory as that served by applicant.

#### ORDER.

San Joaquin Light and Power Corporation having made application to the Railroad Commission as entitled above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity do not require that San Joaquin Light and Power Corporation continue to operate as a public utility its water plant in the city of Madera.

And basing its order on the foregoing finding of fact and on the other statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, by the Railroad Commission of the State of California that San Joaquin Light and Power Corporation be and it is hereby authorized to discontinue service of water from the system owned by it and serving water to certain consumers in the city of Madera and to cease its operations as a public utility water corporation

in said city, provided that applicant files with this Commission a certified statement to the effect that each and every consumer attached to its system has been given thirty (30) days' written notice of applicant's intention to discontinue water service and also that all consumers have been advised that they at once make application to the city of Madera for service from the municipal water works or otherwise arrange for water service; and further, that when service has been discontinued to all consumers and they have been provided with another satisfactory water supply, a certified statement to that effect be also filed.

*It is hereby further ordered*, that San Joaquin Light and Power Corporation be and it is hereby authorized to sell or otherwise dispose of the property used in the conduct of its public utility water operations in the city of Madera when and after such time as it has complied with all the conditions of this order as above specified.

Dated at San Francisco, California, this twelfth day of March, 1923.

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DECISION No. 11782.

IN THE MATTER OF THE APPLICATION OF F. A. BENNETT AND L. C. FAUS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE BETWEEN THE CITY OF LOS ANGELES, PROPER, AND LOS ANGELES HARBOR, STEAMSHIP WHARVES LOCATED AT WILMINGTON AND SAN PEDRO.

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Application No. 8467.

Decided March 14, 1923.

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*Frank M. Smith*, for Applicants.

*L. N. Bradshaw*, for Southern Pacific Company, Protestant.

*E. E. Bennett*, for Los Angeles and Salt Lake Railroad, Protestant

*T. A. Woods*, for American Railway Express, Protestant.

*H. N. Blair*, for Hodge Transportation System, Protestant.

*C. W. Byrer*, for Los Angeles and San Pedro Transportation Company, Protestant.

*G. F. Squires* and *R. E. Wedekind*, for Pacific Electric Railway, Protestant.

BY THE COMMISSION.

OPINION.

F. A. Bennett and L. C. Faus, copartners, have applied to the Railroad Commission for a certificate of public convenience and necessity to operate auto freight truck service between "the city of Los Angeles, proper, and Los Angeles Harbor, steamship wharves located at Wilmington and San Pedro."

Applicants base their justification of public necessity on the allegation "on account of the immense increase in business in the past few

months to and from Los Angeles Harbor the present transportation facilities are inadequate." Applicants adopted practically the same rates as other auto carrier's between termini and practically the same operating methods.

Public hearings were held by Examiner Williams at Los Angeles.

Unless applicants sustain by their evidence the allegation of facts, as heretofore quoted, there is no purpose to be served in discussing the mass of testimony produced both by applicants and protestants as to subordinate matters.

There are now three authorized auto carriers and three rail carriers between termini. They are the Hodge Transportation System, Los Angeles and San Pedro Transportation Company and Richards Trucking and Warehouse Company auto carriers and the Southern Pacific, Salt Lake and Pacific Electric Railroads. In addition, according to the testimony, at least fifteen other trucking companies of Los Angeles, whose legal status as carriers has not been determined by this Commission, are engaged daily in the transportation of large movements, particularly merchandise and oil field pipe and machinery, under private arrangement with consignees. The testimony as to what proportion of the tonnage is available for truck transportation is not definite but no witness estimated it at more than 40 per cent, or less than 25 per cent.

William Edgar McKee, president and executive manager of the Los Angeles Board of Harbor Commissioners, which controls San Pedro Harbor, a part of the municipality of Los Angeles, testified that the harbor has been constructed primarily to connect with rail trans-shipment; that this very fact makes truck operation difficult to provide facilities for and that, while ramps exclusively for trucks had been built on many wharves owned by the municipality, the policy of the municipality gives the preponderance of facilities to the rail service. Mr. McKee said the tonnage over the municipal docks (about seven-eighths of all docks) had more than doubled in the last seven months of 1922. This increase of tonnage congested all wharf facilities. In an effort to relieve the congestion, the municipality through its harbor commission is expending \$4,000,000 in new facilities almost wholly for shipping and rail contact. He also said that the trucking service now available at the harbor for consignees is beyond the facilities provided and that multiplication of the number of carriers would be of no benefit. For the storage of cars, Mr. McKee testified, 40,000 feet of new trackage is being built, about one-half of which is now available for rail carriers.

Capt. S. S. Sandberg, port traffic manager for the board of harbor commissioners, testified in detail as to the great increase in tonnage

during 1922. He produced the following table showing monthly comparison of tonnage increase, over the municipal docks only:

	1921	1922
June -----	333,943	547,478
July -----	315,680	657,317
August -----	330,340	742,627
September -----	345,357	823,229
October -----	335,775	941,350
November -----	413,111	921,400
December -----	451,155	1,012,228
Totals-----	2,425,381	5,645,629

This table shows an increase of 3,220,248 tons or approximately one and one-third times the tonnage in 1922 and over 1921.

Capt. Sandberg testified that the port has regular and frequent call from 52 steamship lines, operating on all seas. The preponderance of shipping is between the Atlantic and Pacific seaboards, via Panama Canal. Protestants' testimony as to volume of port traffic and truck delivery facilities coincides with that of Mr. McKee and Capt. Sandberg.

It is plain, therefore, that the "immense increase in business" alleged by applicants is a fact sustained by the testimony herein. The cause of this increase was explained by Capt. Sandberg whose testimony, by reason of his long experience with marine traffic and his disinterested position, may be accepted. He attributes the increase to three causes: first, a natural increase in volume of business; second, a marine rate war which brought tariffs to an average of 50 per cent deduction; third, a general railroad shopmen's strike which existed in the summer and fall.

The natural increase included heavy tonnage of holiday goods and pipe and machinery due to enlarged and accelerated oil exploration. The reduced rates induced rail transportation to the Atlantic seaboard for transport to the Pacific Coast via Panama Canal, from points as far west as Chicago and Minneapolis. The strike condition crippled transcontinental rail facilities and thus diverted much traffic to water facilities. That the traffic of the port should continue of the magnitude it has reached Capt. Sandberg would not prophesy but he said the harbor management is making plans to enlarge docks and wharfage to peak capacity with confidence that it would be required.

Applicants allegation that "present transportation facilities are inadequate" requires inquiry into the tonnage offered for transportation to and from the harbor. Favorable rates and spur track deliveries have caused movement of car load lots in preponderance by rail carriers and it is in evidence that all the equipment of these carriers available for harbor duty was utilized by the shipping public. There was evidence, also, that these carriers were unable to use more equipment than was actually used due to the limitation of facilities

and space at the wharves. Applicants produced several witnesses who testified as to abnormal delays in rail shipments from the harbor to Los Angeles central points. W. H. Jones, trainmaster of protestant Southern Pacific Railway, testified that his records showed that under favorable conditions shipments were transported in 24 hours particularly as to lumber between termini but that under the unfavorable condition caused by port congestion 72 hours was a fair average. He also testified that consignees facilities to receive shipments at point of delivery were often inadequate and this caused much of the delay. Witnesses for applicant all testified to more or less delay in getting shipments either by rail or truck from the harbor. According to Harry Browning, traffic manager of the Broadway Department, "there has been no such thing as normal service for months" due to the congestion at the water front rather than lack of transportation. Others, who testified more equipment was needed said this could be furnished by existing carriers, providing adequate space was furnished on the docks. Without this increase in working space increase in equipment would be futile to give relief, these witnesses, in general, testified. The testimony of applicant's witnesses taken as a whole is to the effect that more expeditious service is desirable but not that additional carriers are necessary.

Protestant's testimony shows that the equipment provided by them has not been used by shippers and further that each has ability to provide any additional equipment that demand of shippers might require. Protestant Hodge Transportation System, through Conrad Schweitzer, its chief dispatcher, showed that in October, 1922, this carrier conveyed 201 truck and trailer loads to docks and only 79 such pieces of equipment were used by shippers on return removal. This carrier has 29 5-ton trucks and a larger number of trailers and has ability, at call, to more than double that number, enough in fact, to handle 1000 tons daily, Mr. Hodge testified. Protestant Los Angeles and San Pedro Transportation Company now has 21 trucks and 13 trailers with a total capacity of 117 tons daily. F. E. Marr, freight agent of this protestant, testified that much of the time 10 per cent or more of this equipment is idle. This carrier's experience is the opposite of the Hodge Transportation System, in that the bulk of its traffic is from the docks to the city. It serves approximately 500 receivers of freight in Los Angeles. It carried from the docks to the city 27,150 tons during 1922. This carrier provided 66 per cent increase in equipment in 1922 but received only a 33 per cent increase in business.

It was not disputed that the great preponderance of harbor truck traffic is handled by the fifteen or more carriers whose legal status has not been determined by this Commission and that their freedom to

accept business at more favorable rates (almost uniformly 21 cents per 100 pounds) than the carriers protesting attract business to them. While this situation continues and while the authorized carriers cannot find full use for their equipment and considering that applicants offer practically no different rates than those now established by authorized carriers, a necessity for additional service is not to be found in the record in this case. The testimony is convincing that until better facilities are provided at the docks for truck operations an additional carrier would not be serviceable.

Applicants propose a night service not now given protestants but each protestant offers the same service by stipulation whenever business demands it and to absorb the additional charges. The difficulty with night service is that consignees are not prepared to receive consignments except during day business hours. Protestants testified that there had been no real demand for night service.

It is our finding, based on the facts shown in the record, that there is not at this time, a necessity for an additional service between the termini proposed and that therefore this application should be denied.

#### ORDER.

F. A. Bennett and L. C. Faus, copartners, having applied to the Railroad Commission for a certificate of public convenience and necessity to operate auto freight truck service between the city of Los Angeles, proper, and Los Angeles Harbor, steamship wharves located at Wilmington and San Pedro, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the services proposed by applicants and that the application herein be and the same hereby is denied.

Dated at San Francisco, California, this fourteenth day of March, 1923.

## DECISION No. 11784.

CITY OF BENICIA, A MUNICIPAL CORPORATION,

vs.

BENICIA WATER COMPANY, A CORPORATION.

Case No. 1580.

IN THE MATTER OF THE APPLICATION OF BENICIA WATER  
COMPANY FOR A RAISE IN RATES.

Application No. 6850.

Decided March 14, 1923.

*Jesse H. Steinhart*, for Benicia Water Company.  
*Arthur C. Huston* and *Harry L. Huston*, by *Harry L. Huston*, for the City of Benicia.  
*H. H. Gogarty*, for Southern Pacific Company.

MARTIN, *Commissioner*.

## OPINION.

The above entitled proceedings are brought by the city of Benicia and the Benicia Water Company for the purpose of revising water rates in the city of Benicia.

The complaint filed by the city alleges that the emergency rate authorized by the Commission in its Decision No. 7637 is not now needed and continuance of said rate permits Benicia Water Company to charge and collect for service not rendered; that the regular rates in force are unjust and disproportionate to the value of property used and the service furnished; wherefore it is desired that the Commission suspend the emergency rates until a further hearing may be held, and after said hearing regular rates be fixed to cover the service received.

Defendant answers by denying the allegations, except that it is in accord as to the rates being unjust and disproportionate to the service rendered and alleges that earnings have been insufficient to meet dividend requirements and none have been paid. Defendant declares its intention of filing an application for an increase in rates and requests that the Commission withhold action until same can be filed, when the city's complaint and the company's application may be consolidated for hearing.

The application filed alleges that the present and actual value of the company's property is in excess of \$500,000, and that the regular rates have not earned a sufficient amount to equal a two per cent return on the investment after operating expenses and depreciation have been met; wherefore an increase in rates is desired in order that at least an eight per cent return may be received upon the value of its plant and properties used and useful in the conduct of its public utility business.

These matters were combined and heard at Benicia. All interested parties were given an opportunity to be present and be heard.



It appears that the original water company serving Benicia was incorporated in 1879, changes occurring until at present and for some time Benicia Water Company has been serving this city. The present capitalization is \$500,000, divided into 10,000 shares of \$50 par value per share. There are 6868 shares outstanding, or a par value of \$343,400. About 64 per cent of the outstanding stock is held by Kullman-Salz and Company.

Briefly, this system consists of two collecting reservoirs whose combined capacity is 476,000,000 gallons, a pumping plant located below these reservoirs which elevates the stored waters to a third reservoir of 1,500,000 gallons capacity, from which the city is served through mains up to 8 inches in diameter. About 600 consumers are served. The system is entirely metered. When fresh water is obtainable in Carquinez Straits the above supply is augmented by filling a barge with water from the straits and pumping thence direct into the system.

In January, 1919, Benicia Water Company filed Application No. 4343, stating that due to decreased rainfall during the past season and increased activities in the city, the water supply was depleted to such an extent that it was necessary to sink wells and also barge water from the Sacramento River. To cover the additional cost the utility asked for an emergency rate to compensate for the extra expense. Commission's Decision No. 6223 authorized emergency rates which were effective from May 1, 1919, to May 30, 1920, inclusive.

In April, 1920, the company filed Application No. 5570, stating that due to continued lack of rainfall the expense of providing an adequate supply of water by barging necessitated higher emergency rates than those previously authorized. Commission's Decision No. 7637 authorized such rates, which were effective from June 1, 1920, to June 30, 1921, inclusive. At the termination of these rates the emergency expense had been met by the increased earnings. Some of the emergency equipment was taken over as a part of the regular plant and is now in use by the company.

Reference is made to the foregoing decisions for a complete exposition of the emergency conditions. Rates effective during these periods will be set out later in this opinion.

Appraisals showing the estimated original cost of the utility's system were presented by engineers F. C. Herrmann and J. A. Wilcox for applicant, and Harry Monett and J. E. Daugherty for the Commission. Mr. Chester H. Loveland, for the city, accepted the findings of the Commission's engineers.

Applicant's appraisal totaled \$385,437.64, \$36,161 of which represents intangibles. The intangible items are: organization \$5,171, water rights \$3,700, and development expense \$27,290. It is readily apparent

that the greater part of the intangibles is purely speculative, and their complete acceptance would be unjust to the consumers. If the intangibles are excluded the appraisals, which are in great detail, are in such close agreement that no discussion is needed as to their reconciliation. However, it is not necessarily a fact that all items comprising these appraisals are used and useful in applicant's public utility business. Neither is it self-evident that the deductions recommended by the city, amounting to \$50,935, are the correct ones to be made.

It appears that even with deductions of items that are of doubtful or no value to applicant's public utility business, the capital investment in this system is relatively large for a community of the size of Benicia. This no doubt is explained by the fact that Benicia is not located advantageously as to an economical water supply. The experience gained during the emergency periods indicates the advisability of having an additional supply, and it appears that the method of pumping from the straits as now practiced is as economical as can be followed at the present time.

Depreciation annuities were recommended, based on the six per cent sinking fund method. The sum of \$5,012 has been determined, after proper consideration of adjustments in the capital investment, to be a sufficient and proper amount to set aside annually to provide for replacement of property worn out in the service of the public.

Studies of past expenses for maintenance and operation and estimates for the future were presented by applicant, the city, and the Commission's engineers. The annual estimated future expense for these items, as presented by the three specified agencies, amounted to \$35,419.52, \$26,975 and \$29,300.91 respectively. Included in applicant's estimate was the sum of \$2,854.58, representing the estimated federal income tax. This is not a proper operating charge.

Subsequent to the preparation of these estimates fuel oil prices have been reduced, and it was agreed at the hearing that this item should be adjusted in accordance with changes in price of fuel oil.

While operation of this utility is considerably different from that of the usual water utility serving a community of this size, the evidence does not justify the inclusion of management charges as presented in applicant's exhibits, and it is believed that applicant can effect economies without injury to itself or impairment of the service.

Objection was made by the city to turbid water that sometimes is furnished. The installation of a complete filter system would obviate this, but the wisdom of advocating such a necessarily expensive installation at this time is questionable. The water obtained from the straits is filtered. All water served by the Benicia Water Company is treated chemically, rendering it safe for human consumption. Samples of

water are tested daily by a local laboratory, and careful attention to this detail will safeguard the city's water supply. The company agreed to a system of flushing dead-end mains, which no doubt will give some relief from the turbid condition mentioned.

The city recommended an increase in the item for purification expense, and this will be allowed. With the foregoing additions and adjustments as noted, it is believed that the sum of \$25,000 will, if efficiently and economically expended, meet the proper annual operation costs on this system.

The rates now in effect and during the emergency periods are as follows:

		Emergency rates		
		May 1, 1919, to June 1, 1920	June 1, 1920, to July 1, 1921	
		Application 4343 Decision 6223	Application 5570 Decision 7637	
<i>Monthly minimum—</i>		Regular and present rates		
$\frac{3}{4}$ -inch meter or less-----		\$1 50	\$1 50	\$2 25
For each $\frac{1}{4}$ -inch diameter above $\frac{3}{4}$ -inch-----		50	50	50
<i>Monthly meter rates—</i>				
First 20,000 gallons, per 1000 gallons----	60			
Next 10,000 gallons, per 1000 gallons----	55			
Next 10,000 gallons, per 1000 gallons----	50			
Next 10,000 gallons, per 1000 gallons----	45			
Next 25,000 gallons, per 1000 gallons----	40			
Next 25,000 gallons, per 1000 gallons----	35			
Over 100,000 gallons, per 1000 gallons----	20			
First 20,000 gallons, per 1000 gallons----			75	
Next 10,000 gallons, per 1000 gallons----			60	
Over 30,000 gallons, per 1000 gallons----			55	
First 20,000 gallons, per 1000 gallons----				1 50
Next 20,000 gallons, per 1000 gallons----				1 45
Next 20,000 gallons, per 1000 gallons----				1 40
Next 20,000 gallons, per 1000 gallons----				1 35
Over 80,000 gallons, per 1000 gallons----				1 30
Municipal use, per month-----	100 00	100 00	160 00	

The emergency rates earned a sufficient sum before they were discontinued to compensate the company for the added expense necessary in providing the additional water required. The present rates, which also were in effect prior to the emergency, are entirely inadequate, according to applicant, and its exhibits present a suggested schedule as follows:

SERVICE CHARGE.		
$\frac{3}{4}$ -inch meter, per month-----		\$1 67
$\frac{1}{2}$ -inch meter, per month-----		2 85
1 -inch meter, per month-----		5 00
1 $\frac{1}{4}$ -inch meter, per month-----		10 00
2 -inch meter, per month-----		16 50
3 -inch meter, per month-----		33 50
4 -inch meter, per month-----		50 00
6 -inch meter, per month-----		100 00

FOR WATER DELIVERED—METER RATES.

For the first 3,300 cubic feet, per 100 cubic feet-----	\$0 75
For the next 30,000 cubic feet, per 100 cubic feet-----	50
For over 33,300 cubic feet, per 100 cubic feet-----	34

## MUNICIPAL USES.

Fire protection service, per month-----\$275 00  
 All other municipal uses at regular rates.

Applicant calculates that these rates will earn \$69,667.27 per annum, or approximately the revenue required to meet their estimated annual charges. The experience of the Commission has shown that where a rate is unduly high in proportion to the reasonable value of the service that a decreased use of water has generally resulted, with a consequent decrease in revenue. High rates may easily defeat the very ends sought.

If the company's proposed rates were authorized the ordinary householder's water bill would be approximately \$4 per month, and economy of use would have to be exercised to remain within that limit.

Such a charge would not be to the best interests of either the utility or the public.

If the regular rates were applied to the water use for the years 1919, 1920 and 1921, the revenues would have been \$45,036.76, \$43,983.54 and \$35,713.38 respectively. These figures can not be accepted unconditionally as they are based on what may have been a restricted water use due to a higher rate schedule.

The rates herein established are designed to be fair to the consumer and to allow a reasonable operation and maintenance expense, depreciation, and to provide a fair return, under the conditions as they exist, on the property used and useful in the public service.

Of all water delivered in 1921, the municipality and small manufacturing used 9 per cent, domestic consumers 14 per cent, Kullman-Salz and Company 27 per cent, and the Southern Pacific Company 50 per cent. The wide variations in use that occur with the large consumers at times, materially affect the service and operations of this utility, and fruitful efforts of these users to make their consumption more uniform would result to the advantage of all concerned. In a measure at least these large users are responsible for the greater cost of water above that generally found for a community of this size, and hence they should in all possible ways help to bear and distribute the burden equitably. Any schedule of rates established can not in itself accomplish this; cooperation of the users must be had. The equities of the situation are apparent and the users should give their support.

The following form of order is submitted:

## ORDER.

City of Benicia having made complaint in the above entitled proceeding as outlined, and Benicia Water Company having applied for an increase in rates, public hearings having been held on both proceedings, briefs filed, and the matter now being ready for decision;

It is hereby found as a fact that the rates charged by Benicia Water Company are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged by Benicia Water Company for water delivered in and in the vicinity of Benicia, Solano County.

And basing its order upon the foregoing finding of fact and upon the findings contained in the opinion preceding this order;

*It is hereby ordered*, that Benicia Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates, said rates to be charged for all service rendered subsequent to April 5, 1923:

## MONTHLY MINIMUM METER RATES.

½-inch meter	-----	\$1 65
¾-inch meter	-----	2 25
1-inch meter	-----	3 00
1½-inch meter	-----	5 00
2-inch meter	-----	10 00
3-inch meter	-----	20 00
4-inch meter	-----	35 00
6-inch meter	-----	65 00

## MONTHLY METER RATES.

0 to 300 cubic feet, per 100 cubic feet	-----	\$0 55
300 to 1,000 cubic feet, per 100 cubic feet	-----	48
1,000 to 5,000 cubic feet, per 100 cubic feet	-----	43
5,000 to 10,000 cubic feet, per 100 cubic feet	-----	38
All over 10,000 cubic feet, per 100 cubic feet	-----	33
Fire protection service, per hydrant, per month	-----	2 00

All other municipal uses at regular meter rates.

*It is hereby further ordered*, that within thirty (30) days from the date of this order applicant file with this Commission, subject to its acceptance, a set of rules and regulations governing the service and relations with its consumers.

*It is hereby further ordered*, that the complaint in the above entitled matter be and it is hereby dismissed without prejudice.

*It is hereby further ordered*, that April 5, 1923, be and the same is hereby designated as the effective date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of March, 1923.

## DECISION No. 11788.

WESTERN MEAT COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, ET AL.

Case No. 1671.

MILLER AND LUX, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1686.

VIRDEN PACKING COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1784.

Decided March 16, 1923.

REFRIGERATION CHARGES — MEAT AND PACKING HOUSE PRODUCTS. — Prior to February 28, 1920, the lines transporting fresh meats and packing house products in refrigerator cars, "Do not re-ice," moved these commodities at the freight rate with no charge in addition for the refrigerator service. On that date separate charges, in addition to the freight rate then obtaining were published in connection with Rule 240, section 2 of Perishable Protective Tariff No. 1, C. R. C. No. 5, these charges being from \$5 to \$7.50 per car, dependent upon the distance moved.

The new charges were not applied in any instance until July 1, 1920; and, with but few exceptions, the charge was protested by the shippers and not paid, upon the ground that Rule 240 was not applicable to meats and packing house products. Held, that the separately established charges of February 28, 1920, effected an increase in the aggregate rate, that the rates in effect prior to February 28, 1920, included compensation for the refrigerator car service, also that the provisions of Rule 240 created excessive and unreasonable charges. Reparation awarded in instances where the accessorial charges have been collected, and where not collected, the bills were ordered canceled.

*Sanborn and Roehl* and *R. D. Rynder*, for Western Meat Company.

*G. C. Larkin*, for Miller and Lux.

*F. F. Atkinson*, for Virden Packing Company.

*R. C. Dearborn*, for National Perishable Freight Committee.

*Geo. G. Bradley*, for Chas. C. Swanston and Son, Intervenor.

*Elmer Westlake*, for Southern Pacific Company.

*B. Levy* and *Geo. H. Nelson*, for Atchison, Topeka and Santa Fe Railway Company.

*H. C. Bush*, for Western Classification Committee.

By THE COMMISSION.

## OPINION.

These cases present like issues, were consolidated for hearing and will be disposed of in the one report.

The complaints were filed September 27, 1921, October 26, 1921, and July 1, 1922, and the original complaint in Case No. 1671 was amended March 8, 1922.

The pleadings put in issue the refrigeration charges assessed by defendants against carloads of meat, etc., originally iced by consignors and not re-iced in transit.

Since the allegations in the three proceedings are similar we will deal mainly with Case No. 1671, of the Western Meat Company, which complainant presented all of the exhibits and the major part of the testimony. The complaint alleges:

(a) That the refrigeration charges assessed in connection with shipments originally iced by the shipper with instructions "Do not re-ice," are unjust, unreasonable and excessive, in violation of section 13 of the Public Utilities Act, and unlawful, in violation of sections 17, 30, 61 and 63 of the act and of section 20, article XII, of the constitution of the State of California.

(b) That during the period, March 1 to June 30, 1920, defendants transported carload shipments of meat and packing house products originally iced by the shipper, with orders not to re-ice in transit, against which no charge, in addition to the transportation charge, was demanded or collected.

(c) That since July 1, 1920, there have been assessed and demanded refrigeration charges under Item 240 of Perishable Protective Tariff No. 1, C. R. C. No. 5, issued by J. E. Fairbanks, agent, effective February 28, 1920.

(d) That the provisions of Item 240 of the Fairbanks tariff were not lawfully applicable to complainant's shipments within California.

(e) That if the provisions of Item 240 were applicable, the charges would be unjust and unreasonable, and result in the imposition of unjust, unreasonable and excessive charges.

(f) That during the period of federal control and at all times prior to July 1, 1920, no refrigeration charges were assessed.

(g) That defendants at no time made a satisfactory showing that there had been any change in circumstances and conditions justifying a charge for a refrigeration service in addition to the regular transportation rates.

(h) That the defendants be required to cease and desist from demanding and collecting any refrigeration charges when shipments are initially iced by shipper and not re-iced in transit; that an award of reparation be entered against defendants for any refrigeration charges collected and that any refrigeration charges assessed and not collected be canceled.

A hearing was held before Examiner Geary, in San Francisco, on July 10 and 11, briefs have been filed, the last one on January 10, 1923, and the matter is now ready for an opinion and order.

The main issues involved in these proceedings have been the subject matter for investigation by the Commission at various times and a brief résumé of the conclusions arrived at follow:

In Application No. 1878 (9, C. R. C. 334) decided March 14, 1916, the Southern Pacific Company sought permission to cancel reference note in S. P. C. R. C. No. 1632 in connection with rates on packing house products from South San Francisco to San Francisco, reading:

Will apply on shipments under ice in refrigerator cars, but does not include cost of refrigeration. Exception to Rule 13 of Tariff.

Rule 13 of Tariff reads:

Rates named in this tariff do not include charge for refrigeration of freight. Refrigeration being a special service separate and distinct from transportation, the charge made for refrigeration is in addition to the transportation rates named herein. See S. P. Co.'s Local and Joint Refrigeration Tariff No. 810 (C. R. C. No. 1847), supplements thereto and re-issues thereof, for refrigeration charges on shipments handled by the lines of this company.

In view of the outstanding fact that the cancellation of this note would increase the transportation charges on packing house products from \$5 to \$10 per car, the Commission denied the application without prejudice.

In Case No. 997 (12, C. R. C. 590) decided February 21, 1917, C. Swanston and Son, shippers of packing house products, located at Sacramento, brought a complaint against the Southern Pacific Company alleging that prior to March 15, 1915, they had transported fresh meats in carload lots from Sacramento to Stockton, San Francisco and Oakland in refrigerator cars, initially iced by shippers and without re-icing being necessary en route, at the freight rate, no charge having been assessed in addition thereto account shipments moving in iced refrigerator cars; that subsequent to March 15, 1915, to the time the complaint was brought, defendant assessed, in addition to the freight rate, a charge of \$5 per car on fresh meats moving under refrigeration initially iced by complainant and not re-iced.

In its finding for the complainant the Commission, in part, said:

In view of the fact that these shipments had universally been moving under ice, mixed with salt, for a number of years prior to the establishment of the third-class rate now under consideration, and giving due consideration to all the other circumstances of this case, we find that any charges which defendant was entitled to make either for damage to its cars from ice or salt or for cost of hauling the ice or extra switching and inspection should have been, and presumably were, taken into consideration when the \$3.60 and \$1.80 rates were established by defendant.

It is our opinion that defendant has failed to establish the fact that it has rendered a refrigeration service on these shipments for which it is entitled to additional compensation. (Page 597.)

\* \* \* \* \*

Defendant should so amend its Refrigeration Tariff 810 as to make it perfectly clear that the refrigeration rates named therein are not applicable to shipments priced by shippers and not re-iced in transit, moving under Rule 29 of the Western Classification. (Page 598.)

In Application No. 2628 (13, C. R. C. 18, April 7, 1917) the Southern Pacific Company again applied for authority to cancel reference note carried in its Tariff 730, C. R. C. 1632. That application was granted, with instructions that Rule 29 of Western Classification would apply, the holdings being similar to those in Case No. 997.

In Case No. 997 the Commission also held that the evidence submitted by carriers of damages to bunkers was insufficient to show that any heavy damages could result, owing to the fact that the ice used was broken into pieces and then fed into the bunkers by means of a chute, thus eliminating all damage other than the ordinary wear and tear to the equipment.

The packing plant at South San Francisco was originally established in 1892 by the South San Francisco Land and Improvement Company, the predecessor of the Western Meat Company. What the first rate was



is not of record, but there was a rate of 50 cents per ton January 1, 1906, Tariff 16 Y, C. R. C. 84. The total revenue accruing to the defendant under that tariff, on the basis of a minimum weight of 20,000 pounds, was \$5 per car. The rate of 50 cents per ton, without additional charge for refrigeration when iced by the shipper, remained in effect until June 28, 1918, when by General Order No. 28 of the Director General of Railroads, it was increased to 60 cents per ton, and the minimum charge increased from \$5 to \$6. The rate of 3 cents per 100 pounds, or 60 cents per ton, was increased August 26, 1920 (Ex parte 74), to 4 cents per 100 pounds, or to 80 cents per ton and the minimum charge per car from \$6 to \$8. The rate of 4 cents per 100 pounds remained in effect until July 11, 1921, when all class and commodity rates between San Francisco and South San Francisco were canceled and the San Francisco switching limits were extended to include South San Francisco, thereby reducing the rate of 4 cents per 100 pounds, applicable to meat and packing house products, to 50 cents per ton, with a minimum of \$12. This reduction was brought about by our Decision May 12, 1921, in Application No. 6390 (19, C. R. C. 856). On July 1, 1922, practically all rates were reduced by 10 per cent (I. C. C. Reduced Rates 1922), making the present rate on packing house products between South San Francisco and San Francisco 45 cents per ton, minimum charge \$11 per car.

On shipments of fresh meat and packing house products from Sacramento, the conditions surrounding the transportation to San Francisco, Oakland, Stockton, etc., are identical with those from South San Francisco in so far as pre-icing by shippers is concerned.

In the instant proceedings the complainants presented eight exhibits, the defendants seven, and both sides argued the case in printed briefs. Complainants, in addition to the testimony of their local traffic managers, had as one of their witnesses the traffic director of Swift & Company, Chicago, while the defendants, in addition to their local officials, presented as witnesses a member of the Western Classification Committee, the chairman of the National Perishable Fruit Committee and the manager of the refrigerator department of the Atchison, Topeka and Santa Fe Railway, the last three witnesses coming from Chicago. Every angle of the case was presented in a clear and most satisfactory manner by both sides.

Perishable Protective Tariff No. 1, C. R. C. No. 8, became effective February 28, 1920, the day before federal control terminated, and provides in section 2, by tables 7 to 12 inclusive, the stated refrigeration charges from points in California to interstate points and between points within California. The charges are segregated as between the different commodities, the only part involved in this proceeding being under the caption:

Column 4—Vegetables (except lemons); also perishable freight not otherwise indexed by name.

Governed by Rules Nos. 200 to 240 inclusive.

It is the contention of complainants that the words "perishable freight not otherwise indexed by name" are not applicable to fresh meats and packing house products; that Rule 240 does not apply and, therefore, all refrigeration charges assessed against shipments of these commodities are unlawful and where collected reparation should be made, and where charged and not collected should be canceled. Defendants take the position that Rule 240 does apply and that the accessory charges are correct in connection with the cars initially iced by shipper with instructions "Do not re-ice." It is significant, however, that notwithstanding the tariff became effective February 28, 1920, no effort was made to apply Rule 240 to fresh meat and packing house products until about July 1, 1920, or after a lapse of four months. The record further shows that the agent of the Southern Pacific Company at San Jose did, on December 7, 1921, refund to the Western Meat Company \$25 against five cars forwarded from South San Francisco to San Jose in July and August, 1921. This would indicate that neither the traffic department nor the local agents were convinced that Rule 240 of the tariff actually applies to meat and packing house products.

Complainants' Exhibit No. 6 gives an analysis of the rates applying to perishable commodities moving less than carload, with the rates assessed against fresh meats in carloads. Without going into the details of this Exhibit it is sufficient to note that in the territory where less than carload rates are in effect for cars initially iced by the carriers the total charges are lower than are the charges against fresh meats in cars initially iced by shippers.

The testimony here, as in previous cases, showed that ice in a crushed form is delivered to the bunkers through a chute, eliminating to a great extent damage to the bunkers which the carriers assume when the ice is handled in standard size blocks, as is the practice in connection with fruits, vegetables and other commodities. In addition to this refrigeration service shippers are required, after each trip, to put the cars through a thorough steam cleaning process, taking from one to two hours to perform. It will thus be seen that practically all expenses of cleaning and refrigerating the cars are furnished by the shippers.

In the two proceedings decided by this Commission and already referred to, Application No. 1878 (9, C. R. C. 334) and Case No. 997 (12, C. R. C. 590), we took the position that the freight rates as originally established included the refrigeration. Prior to June 25, 1918, the charge for fresh meat and packing house products from South San Francisco to San Francisco was 50 cents per ton, with a minimum of

\$5 per car. That rate was changed during the war period by increases and decreases and today is fixed at 45 cents per ton, with a minimum of \$11 per car and since in almost every instance the shipments loaded at South San Francisco are subject to the minimum charge the revenue to the carrier has increased from \$5 to \$11, or 120 per cent. The rate between San Francisco and Sacramento was originally \$3.60 and of date is \$5, an increase of 40 per cent.

Rule 240, Perishable Protective Tariff No. 1, as published is intended to apply to fresh meat and packing house products within but six states, namely: Oregon, Washington, Arizona, Nevada, Idaho and California, but the testimony would indicate that the rule has not been uniformly enforced. In Oregon, and especially between North Portland and Portland, where the movement is constant and somewhat similar to that between South San Francisco and San Francisco the additional charge has never been assessed. Attention may also be directed to the fact that similar shipments moving from Ogden, and Salt Lake, Utah, and from Missouri River points to California competitive with the traffic moving within the State of California are not under the provisions of the rule. It would, therefore, appear that a discriminatory situation is created by the accessorial charge under Rule 240 within the State of California which is not applied at competitive points.

After giving consideration to all of the testimony, exhibits and briefs, and basing our conclusion upon the fact that the shippers of fresh meat clean the cars, furnish the crushed ice and the salt, load them into the bunkers, and the further fact that this and the previous investigations clearly show that the rates as originally published included the refrigeration service, we are of the opinion and find that the imposition of the charges under Rule 240 results in discrimination against the California shippers, also creates excessive and unreasonable charges, and that Perishable Protective Tariff No. 1, Cal. R. C. No. 5, should be amended eliminating fresh meats and packing house products from the application of Rule No. 240.

We further conclude and order that these defendants be required to refund any charges actually collected under the provisions of Rule 240 and where the charges have been assessed and not collected that the bills be canceled.

#### ORDER.

These cases being at issue upon complaints and answers on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and being fully apprised in the premises, the Commission hereby finds as a fact:

That the application of Rule No. 240 of Perishable Protective Tariff No. 1, Cal. R. C. No. 5, against fresh meats and packing house products, when initially iced by shipper under instructions "Do not re-ice," im-

poses unjust, unreasonable and discriminatory charges, and basing its order upon the above findings of fact and the further findings of fact in the opinion hereto;

*It is hereby ordered*, that the defendants in this proceeding be and they are hereby notified to cease and desist on or before May 13, 1923, and thereafter to abstain from publishing, demanding or collecting any charges under the provisions of Rule No. 240 of Perishable Protective Tariff No. 1, Cal. R. C. No. 5, against shipments of fresh meats and packing house products initially iced by shippers and not re-iced in transit.

*It is hereby further ordered*, that the defendants, according as they participate in the transportation, make reparation refunds, with interest, of all amounts collected by application of Rule 240 and where freight bills have been rendered and not paid that such bills be canceled.

*It is hereby further ordered*, that if the defendants and the complainants can not agree upon the amount of the refunds due under this order, said parties, or either of them, may appear before this Commission and submit proof, whereupon the Commission will determine amounts to be paid.

Dated at San Francisco, California, this sixteenth day of March, 1923.

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DECISION No. 11789.

CITY OF SAN BERNARDINO, A MUNICIPAL CORPORATION,

*vs.*

SOUTHERN PACIFIC RAILWAY COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND PACIFIC ELECTRIC RAILWAY COMPANY.

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Case No. 1783.

Decided March 16, 1923.

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Wm. Guthrie and Grant Holcomb, for Complainant.

J. E. Lyons, for Defendant, Southern Pacific Company.

E. W. Camp and B. Levy, for Defendant, Atchison, Topeka and Santa Fe Railway Company.

G. F. Squires, for Defendant, Pacific Electric Railway Company.

E. E. Bennett, for Defendant, Los Angeles and Salt Lake Railroad Company.

BY THE COMMISSION.

OPINION.

City of San Bernardino, a municipal corporation, complains of defendants herein and alleges that the public necessity and convenience require that connections be made between the tracks of all of defendant railroads so that cars may be readily transferred from one railroad to

another within the city of San Bernardino; that at the present time defendants, Atchison, Topeka and Santa Fe Railway and Pacific Electric Railway have an interchange track, that Pacific Electric Railway and Southern Pacific Railway Company have an interchange track, that Los Angeles and Salt Lake Railroad has joint track contracts with the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Railway Company; that the terms and compensation for switching of cars to private spurs and industrial tracks within the city of San Bernardino are unreasonable.

Complainant prays for an order of the Railroad Commission requiring defendants to construct connections between their respective tracks so that cars may be readily transferred from one railroad to another in the city of San Bernardino; that all of defendants be required to switch to private spurs and industrial tracks upon its own railroads the cars of the other railroads, and to prescribe the terms and compensation for such service.

Defendants duly filed their answers herein denying the material allegations of the complaint; and by amended answers alleging that the Railroad Commission was without jurisdiction to make any order in this proceeding for the reason that the matter was one properly within the jurisdiction of the Interstate Commerce Commission in accordance with the provision of subdivision 22 of section 1 of the Interstate Commerce Act as amended by the Transportation Act of 1920.

A public hearing on this complaint was conducted by Examiner Handford at San Bernardino at which time the matter was duly submitted and it is now ready for decision.

Witnesses for complainant testified as to conditions arising when shipments destined to an industry located on the rails of one of the defendant companies were received over the line of another carrier, principally as to industry tracks located on the line of the Southern Pacific Company or the Atchison, Topeka and Santa Fe Railway Company. If a shipment arrives over the rails of the carrier which does not serve the industry by direct track connection the delivery is made either by trucking from an established team track or by the switching of the car to the tracks of the railroad having connection with the industry. The expense of truck delivery is estimated to vary from \$30 to \$50 per car according to the commodity to be handled. In the case of actual movement of the car the point of transfer between the tracks of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company is through the interchange at Colton and for this service a minimum charge of \$30 per car is assessed and some

delay is liable to accrue in connection with the transfer. It appears, however, that the principal reason for shipments requiring to be transferred is the failure of shippers to respect the routing orders of consignees and carload shipments are consigned to San Bernardino so routed that the delivering line is other than the line having physical connection with the delivery or industry track upon which the receipt of the shipment is desired. It also appears that the majority of instances where the misrouting or failure to observe routing instructions have occurred have been in connection with interstate shipments.

Witnesses for defendants, Southern Pacific Company and Atchison, Topeka and Santa Fe Railway Company, testified as to the cost of constructing an interchange track at San Bernardino to enable the switching of cars between the lines of the respective companies and the estimates of the cost of construction approximate from \$4,500 to \$5,400 and do not include the value of the land upon which the interchange track would be located.

It also appears that it is the policy of defendants, Southern Pacific Company and Atchison, Topeka and Santa Fe Railway Company to establish joint rates on the carload movement of any commodity whenever such rate is requested and there appears that a reasonable volume of carload movement will follow the establishment and publication of such joint rate. The establishment of such joint rates, in addition to the use of joint rates which are already published and available for shippers and consignees, will fully meet many of the requirements and complaints now being considered and if any difficulty in securing the establishment of joint rates is experienced by shippers or consignees as regards intrastate carload business informal complaint should be made to this Commission that the matter may receive investigation and adjustment.

We have carefully considered all the evidence in this proceeding and are of the opinion and hereby find as a fact that the construction of an interchange track between the lines of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, defendants herein, is not justified, the cost of such track facility (exclusive of land required) being estimated at from \$4,500 to \$5,400. The expenditure would serve no useful purpose for the shipping public other than to make possible a facility to correct errors of routing for which shippers are primarily responsible. The use of joint rates now published, or the publication of new joint rates on carload commodities where the volume of shipments justify their establishment, together with proper diversions on shipments which may have been misrouted (provided that diversion orders are given at a proper time before the

arrival of shipments), will eliminate the causes of complaint appearing herein.

The complaint will be dismissed.

**ORDER.**

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

*It is hereby ordered*, that this complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this sixteenth day of March, 1923.

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DECISION No. 11790.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF TWENTY-FIVE THOUSAND DOLLARS PAR VALUE OF FIRST AND REFUNDING MORTGAGE GOLD BONDS.

Application No. 8742.

Decided March 16, 1923.

*I. B. Potter*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Holton Power Company asks permission to issue and sell, at not less than 85 per cent of face value, \$25,000 of its first and refunding mortgage 6 per cent gold bonds for the purpose of reimbursing its treasury for moneys actually expended in paying and redeeming a like amount of first mortgage 6 per cent bonds that matured on January 1, 1923, or to issue such first and refunding mortgage bonds, at 85, in exchange and discharge of outstanding indebtedness incurred in paying and redeeming such first mortgage bonds.

A public hearing was held before Examiner Williams in Los Angeles on March 10, 1923.

Holton Power Company was organized on or about October 2, 1903, with an authorized capital stock of \$1,500,000 of common stock. Of this amount, \$950,000 has been issued, all of which, excepting directors' shares, is reported held by W. Sherman Fisher, trustee. The record in former proceedings shows that since January 1, 1916, applicant has been controlled through stock ownership by Nevada-California Electric Corporation and for the past several years has been under the same general management as The Southern Sierras Power Company.

The application shows that applicant on June 29, 1907, executed its first mortgage and issued \$500,000 of 6 per cent bonds which have matured, or will mature, in equal annual installments of \$25,000 on the first of January of each of the years 1918 to 1937, inclusive. Subsequently, on October 1, 1911, the company executed its first and refunding mortgage to secure the payment of an authorized issue of \$1,000,000 of 6 per cent bonds which mature serially in equal annual installments of \$50,000 on the first day of January of each of the years 1932 to 1951, inclusive. Of the authorized amount, \$500,000 of bonds were issued to finance construction work and \$500,000 were reserved to retire first mortgage bonds. Heretofore, in various proceedings before the Commission, the company has been authorized to issue \$125,000 of first and refunding mortgage bonds to refund a like amount of first mortgage bonds that matured in 1918, 1919, 1920, 1921 and 1922.

The company reports there are outstanding at present \$625,000 of first and refunding bonds and \$350,000 of first mortgage bonds. It now asks permission to issue an additional \$25,000 of first and refunding bonds to reimburse its treasury because of moneys expended in retiring \$25,000 of first mortgage bonds. The testimony of P. R. Ferguson, applicant's auditor, indicates that the company's earnings have not been sufficient to provide for the retirement of all of such bonds, and that a portion of them were paid with borrowed money. It is of record that applicant intends to use all of the proceeds from the proposed sale of bonds to pay in part its outstanding current liabilities, which are shown in the application to include \$174,214 of notes, \$1,369,526.89 of accounts payable and \$58,242.42 of interest and taxes accrued.

#### ORDER.

Holton Power Company, having applied to the Railroad Commission for permission to issue and sell \$25,000 of bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

*It is hereby ordered*, that Holton Power Company be and it is hereby authorized to issue and sell, at not less than 85 per cent of face value plus accrued interest, \$25,000 of its 6 per cent first and refunding mortgage gold bonds.

The authority herein granted is subject to the following conditions:

(1) The proceeds received from the sale of the bonds herein authorized shall be used to pay indebtedness incurred in retiring the \$25,000 of first mortgage bonds that became due on January 1, 1923, or to reimburse its treasury because of earnings expended for such



purpose. After such reimbursement such proceeds shall be used to pay current liabilities.

(2) Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

(3) The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$25 and will expire on June 15, 1923.

Dated at San Francisco, California, this sixteenth day of March, 1923.

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DECISION No. 11791.

IN THE MATTER OF THE APPLICATION OF WILMINGTON TRANSPORTATION COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application Number 8669.

Decided March 16, 1923.

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*Gibson, Dunn and Crutcher, by S. M. Haskins, for Applicant.*

BY THE COMMISSION.

**OPINION.**

In this application Wilmington Transportation Company asks the Railroad Commission to make an order authorizing it to issue \$365,000 of common capital stock in payment of outstanding indebtedness.

A public hearing was held before Examiner Williams in Los Angeles on March 10, 1923.

Wilmington Transportation Company is engaged in the business of transporting passengers and freight between Wilmington and Catalina Island. It appears that on or about June 30, 1920, the company purchased the steamship "Avalon" from William Wrigley, Jr., for \$781,521.15. Of this amount it paid \$202,600 in its stock at par, and \$578,921.15 in cash received from the sale of \$600,000 of 7 per cent serial notes which the Commission authorized to be issued by Decision No. 7711, dated June 14, 1920. (Vol. 18, Opinions and Orders of the Railroad Commission of California, Page 337.)

Applicant now reports that it is indebted to William Wrigley, Jr., to the extent of \$365,194.48, of which \$350,000 was borrowed to pay at maturity a like amount of the notes issued under Decision No. 7711 and \$15,194.48 to pay marine insurance on the "Avalon." Of the \$365,194.48 the company proposes to pay \$194.48 in cash and \$365,000 in stock at par. It appears from the testimony herein that the

"Avalon" was purchased by William Wrigley, Jr., from the federal government at the close of the war and that the vessel was reconstructed, brought to the Pacific Coast and placed in service. The payment of \$15,194.48 covers insurance during the construction period and therefore in our opinion may be capitalized through the issue of stock.

Wilmington Transportation Company reports its assets and liabilities as of December 31, 1922, as follows:

ASSETS.	
Fixed capital .....	\$1,422,157 82
Cash .....	2,928 08
Accounts receivable .....	71,512 47
Inventories .....	6,230 82
Deferred assets .....	11,961 85
Total assets .....	\$1,514,791 04

LIABILITIES.	
Capital stock .....	\$2,000,000 00
Unissued .....	1,697,500 00
Issued .....	\$302,500 00
Serial gold notes .....	200,000 00
Notes payable .....	200,000 00
Accounts payable .....	180,712 29
Deferred liabilities .....	6,373 45
Reserves .....	349,359 82
Surplus .....	275,845 48
Total liabilities .....	\$1,514,791 04

The fixed capital includes \$825,215.21 said to have been invested in the "Avalon." The investment in six other vessels is reported at \$420,298.71, the investment in five tugs at \$80,579.88, the investment in barges at \$64,846.78, and the investment in other fixed capital at \$31,217.24.

The company reports its revenues in 1920 as \$821,810.62; in 1921 as \$840,670.04; and in 1922 as \$939,088.11. After deducting operating and all other expenses it reports net corporate income for the year 1920 as \$16,126.63; for 1921 as \$18,201.29; and for 1922 as \$32,984.88.

The Commission has considered applicant's request and believes it should be granted, as provided in the following order:

#### ORDER.

Wilmington Transportation Company having applied to the Railroad Commission for permission to issue \$365,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

*It is hereby ordered*, that Wilmington Transportation Company be and it is hereby authorized to issue \$365,000 of its capital stock to

William Wrigley, Jr., to refund in part the outstanding indebtedness referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

(1) Wilmington Transportation Company shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

(2) The authority herein granted to issue stock will become effective upon the date hereof and will expire on August 15, 1923.

Dated at San Francisco, California, this sixteenth day of March, 1923.

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DECISION No. 11802.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, INC., A CORPORATION, FOR LEAVE TO SELL, AND UNITED STAGES, INC., A CORPORATION, FOR LEAVE TO PURCHASE A CERTAIN FRANCHISE OWNED AND OPERATED BY THE FORMER, BETWEEN THE CITY OF BRAWLEY, CALIFORNIA, AND THE CITY OF CALEXICO, CALIFORNIA, PASSING THROUGH IMPERIAL, EL CENTRO, AND HEBER, ALL IN IMPERIAL COUNTY, AND ALL INTERMEDIATE POINTS, FOR THE TRANSPORTATION OF PASSENGERS; AND IN THE MATTER OF THE APPLICATION OF UNITED STAGES, INC., A CORPORATION, FOR LEAVE TO SELL, AND PICKWICK STAGES, INC., A CORPORATION, FOR LEAVE TO BUY THAT CERTAIN AUTOMOBILE FRANCHISE OWNED AND OPERATED BY THE FORMER, BETWEEN THE CITY OF SAN DIEGO, AND THE CITY OF EL CENTRO, CALIFORNIA, VIA LEMON GROVE, JAMUL, DULZURA, POTRERO, CAMPO, BOULEVARD, JACUMBA, AND MOUNTAIN SPRINGS, AND ALL INTERMEDIATE POINTS, FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS MATTER.

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Application No. 8777.

Decided March 16, 1923.

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BY THE COMMISSION.

OPINION.

The Pickwick Stages, Incorporated, a corporation and the United Stages, Incorporated, a corporation, have filed a joint application with the Railroad Commission in which they apply for an order authorizing the two corporations to exchange, through transfer, certain operative rights as more fully hereinafter described.

The Pickwick stages, Incorporated, proposes to transfer to the United Stages, Incorporated, an operative right authorizing the operation of an automobile stage line as a common carrier of passengers between Brawley and Calexico and intermediate points, California, via Imperial, El Centro and Heber, which operative right was obtained by the transferor under Decision No. 5345 in Application No. 3663, dated April 29, 1918.

United Stages, Incorporated, proposes to transfer to the Pickwick Stages, Incorporated, a certificate authorizing the operation of an

automobile stage line as a common carrier of passengers between San Diego and El Centro serving the following intermediate points: Dulzura, Potrero, Campo, Warren's Ranch, Boulevard, Jacumba, Mountain Springs, Coyote Wells, Dixieland and Seeley, which termini and intermediates are specifically set out in Route No. 3, paragraph No. 1 of Decision No. 9930 in Case No. 1473, dated December 27, 1921, which decision established the operative rights obtained by the United Stages, Incorporated, through operation prior to May 1, 1917, and continuously to date of the above numbered decision.

In authorizing the transfer of operative rights as herein proposed, it will be distinctly understood that the Railroad Commission in no way authorizes the transferee in either case to operate a greater or lesser undertaking of public service than the legal and authorized rights of the present holder of said certificates, nor does the Railroad Commission authorize either corporation applicant herein to reduce the present number of schedules operated, nor to operate at greater or lesser rates than those now on file with the Railroad Commission, unless such reduction in service or increase or reduction in rates is hereinafter authorized by formal order of the Railroad Commission.

It will be distinctly understood that in granting the present application, the Railroad Commission does not authorize the linking up by either transferee of the operative rights authorized to be transferred in the present proceeding with operative rights now held by either corporation, except insofar as may be permitted under the provisions of Decision No. 9892 in Applications Nos. 8274 and 5361 and subject to such further supplemental order or orders as may be issued in said Decision No. 9892, or such other order as may be issued by the Railroad Commission upon future applications of the two corporations.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

#### ORDER.

*It is hereby ordered*, that the above entitled application be and the same hereby is granted subject to the following conditions:

That the president of each corporation applicant herein shall file his written acceptance of the certificates herein authorized to be transferred, which written acceptances shall contain a statement to the effect that he fully understands conditions under which this application is granted, as hereinabove set out, and that such conditions will be fully complied with.

That applicant Pickwick Stages, Incorporated, shall immediately cancel tariff of rates and time schedules covering service under the certificate herein authorized to be transferred; that applicant United Stages, Incorporated, shall immediately file, in duplicate, tariff of rates and time schedules covering service under certificate herein

authorized to be transferred to it, or shall adopt as its own the tariff of rates and time schedules as filed by Pickwick Stages, Incorporated, covering said service. All tariff of rates and time schedules to be identical with those as filed by Pickwick Stages, Incorporated.

That applicant United Stages, Incorporated, shall immediately cancel tariff of rates and time schedules covering service under the certificate herein authorized to be transferred; that applicant Pickwick Stages, Incorporated, shall immediately file, in duplicate, tariff of rates and time schedules covering service under certificate herein authorized to be transferred to it, or shall adopt as its own the tariff of rates and time schedules as filed by United Stages, Incorporated, covering said service. All tariff of rates and time schedules to be identical with those as filed by United Stages, Incorporated.

The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

No vehicle may be operated by either corporation applicant herein unless such vehicle is owned by it or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixteenth day of March, 1923.

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DECISION No. 11811.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY TO INCREASE CERTAIN FREIGHT CLASS RATES BETWEEN SAN FRANCISCO AND OTHER BAY POINTS, AND TERRITORY LOCATED IN CALIFORNIA NORTH OF CHICO AND CORNING.

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Application No. 8556.

Decided March 16, 1923.

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CLASS FREIGHT RATES—FROM SAN FRANCISCO AND BAY POINTS TO NORTHERN CALIFORNIA TERRITORY.—Interstate mileage rates to points north of Chico and Corning on north-bound traffic only are authorized. This authorization was given in order to prevent violation of Constitution of State of California and provisions of the Public Utilities Act. Intrastate rates held to be just and reasonable, and the authorization to increase the rates is without prejudice to the rights of this Commission or to any other party in interest as to further proceedings deemed necessary and advisable in the premises.

*F. B. Austin and H. C. Hallmark*, for Southern Pacific Company.

*Seth Mann*, for San Francisco Chamber of Commerce.

*W. D. Wall*, for Traffic Bureau San Jose Chamber of Commerce.

*E. W. Hollingsworth*, for Traffic Bureau Oakland Chamber of Commerce.

*J. C. Sommers*, for Traffic Bureau Stockton Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Traffic Association of Sacramento, et al.

*G. H. Baker, H. M. Wade and F. M. Hill*, for Fresno Traffic Association.

*W. O. Bank*, for Standard Oil Company.

*J. C. Stone*, for Sacramento Northern Railroad.

BRUNDIGE, SHORE AND SEAVEY, Commissioners.

## OPINION.

This is an application by the Southern Pacific Company, under section 63 of the Public Utilities Act, for authority to make certain changes in class freight rates carried in Southern Pacific Tariffs 711-B, C. R. C. 2527; 917-C, C. R. C. 2780 and 360-K, C. R. C. 2559, and in Pacific Freight Tariff Bureau Tariff 148, C. R. C. 224, to and between points in Northern California, as per exhibits attached to and made part of the application.

The Commission is requested to authorize changes in intrastate rates, creating both increases and decreases, claimed to be necessary to prevent violations of that part of section 21, article XII of the state constitution and of section 24 (a) of the Public Utilities Act whereby it is unlawful, without the permission of this Commission, to charge more for a short than for a long haul, or more as a through rate than the aggregate of the intermediate rates. The changes are made necessary to meet the conditions of a schedule of mileage freight class rates imposed by the Interstate Commerce Commission by its order of November 6, 1922, in Docket No. 12830, *Klamath County Chamber of Commerce vs. Southern Pacific Company, et al.*, Dockets 9294, 9408 and 9434, *Portland Traffic and Transportation Association vs. Southern Pacific Company*, and No. 9472, *Medford Commercial Club vs. Southern Pacific Company* (74, I. C. C. 207).

In the proceedings before the Interstate Commerce Commission the Oregon complainants alleged that the class rates from Portland, Medford and other Oregon points to Northern California territory as compared with the class rates from San Francisco, Oakland, Sacramento, Stockton and Marysville to the same destinations were unreasonable and excessive and unfairly stimulated the movement of traffic from California shipping points to the points of destination.

The Interstate Commerce Commission in its decision, Docket No. 12830, etc., *supra*, said:

We find that there are no differences in circumstances and conditions which would justify such disparities and that the class rates from Portland, Medford and other Oregon points south of Portland to points in northern California and southern Oregon, located in the destination territory outlined herein, as compared with the class rates from San Francisco, Sacramento, Oakland, Stockton and Marysville to the same destinations are unduly prejudicial to the Oregon points and unduly preferential of the central California jobbing centers named, and unjustly discriminatory against interstate commerce.

The order requires the carriers to put into effect on or before February 24, 1923, from the California points, intrastate, rates as set forth in the mileage scale, which scale to the points in question is materially higher than the present mileage scale of the California Commission-made rates.

The testimony of applicant's witnesses in the instant proceeding was to the effect that only certain rates at points north of Chico and Corning would be affected by the adjustment herein applied for and, further, that there was but little intrastate traffic moved under rates not directly controlled by the order of the Interstate Commerce Commission.

The class rates within the State of California to northern California points were established July 10, 1917, in conformity with this Commission's decision in Cases Nos. 485, 580 and 686, (11, C. R. C. 867) and, with the war-time adjustments, are still in effect. These rates were approved after a most exhaustive investigation and very careful consideration of all the elements entering into the adjustment and we are of the opinion that, per se, they are no less than just and reasonable.

In ordering the advances in the California rates the Interstate Commerce Commission no doubt relied upon the provisions of section 13(4) of the Interstate Commerce Act.

Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

The Southern Pacific Company is seeking authority not only to increase the rates from San Francisco and the other California points to the northern destinations, but also to publish the same schedule of rates on southbound traffic. Their action, therefore, is in excess of the direct order of the Interstate Commerce Commission. Inasmuch, as heretofore stated, we are of the opinion that California intrastate rates are just and reasonable, it appears unnecessary and improper that the rates should be increased southbound. The plea of the carriers is that to have higher rates northbound than southbound would result in confusion and mistakes on the part of their agents and the shipping public. This reason does not present sufficient justification for increases southbound.

As heretofore stated, the Interstate Commerce Commission ordered the increased schedule of mileage rates put into effect within the State of California on or before February 24, 1923. The effective date of the order was, on January 17, 1923, upon request of the California Commission, modified to become effective on April 24, 1923.

Subsequent to modification of the order, petitions for rehearing were forwarded to the Interstate Commerce Commission by the McCloud

River Railroad Company, Oakland Chamber of Commerce and the Railroad Commission of the State of California, all of which petitions have been denied.

Under all of the circumstances and after giving very careful consideration to the instant application, we believe the same should be granted, but only to the extent that the rates be increased in the northbound direction. This conclusion is reached and the authorization is granted in order that there will be no confusion or interference in the establishment of the rates fixed by the Interstate Commerce Commission under authority of Transportation Act 1920.

Our conclusion is to meet an emergency situation and is not to be construed as an approval of the increased rates, and the authorization to increase the rates is without prejudice to the rights of this Commission or to any other party in interest as to further proceedings deemed necessary and advisable in the premises.

#### ORDER.

Application having been made by the Southern Pacific Company for an order authorizing the increasing of certain intrastate class rates to and between points within Northern California in harmony with the increases ordered into effect by the Interstate Commerce Commission in its Docket No. 12830, etc., decided November 6, 1922, all of which is set forth in application and the exhibits on file with this Commission, a public hearing having been held on the said application, and the Commission being duly advised in the premises hereby finds as a fact that the application should be granted, but to cover the adjustment in the northbound rates only, and without prejudice to any further proceeding involving the same rates.

Basing our order on this finding of fact and the further findings contained in the opinion which precedes this order;

*It is hereby ordered*, that the application in so far as it applies to northbound rates should be and the same is hereby granted, and the Southern Pacific Company is hereby authorized to establish the increased rates on or before April 24, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of March, 1923.



## DECISION No. 11813.

IN THE MATTER OF THE APPLICATION OF LINDSAY HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE A CORPORATION NOTE IN THE AMOUNT OF TEN THOUSAND DOLLARS.

Application No. 8760.

Decided March 19, 1923.

*Chas. H. Button*, for Applicant.

BRUNDIGE, *Commissioner*.

## OPINION.

Lindsay Home Telephone and Telegraph Company has applied to the Railroad Commission for permission to issue a \$10,000 unsecured 7 per cent three-year note for the purpose of paying and refunding indebtedness and reimbursing its treasury on account of earnings expended for additions and betterments. Applicant reports outstanding a \$6,000 8 per cent note payable to the First National Bank of Lindsay and a \$2,500 8 per cent note payable to Cora E. Tallman (E. L. Daniels, trustee). It is indebted to Chas. H. Button, its secretary, to the extent of \$1,000. It is of record that during 1920, 1921 and 1922 applicant expended for additions and betterments \$20,616.59. During this period it issued no stock or bonds. It invested in additions and betterments moneys represented by reserve and by surplus earnings, and in addition thereto, found it necessary to borrow \$9,500, on which it is paying interest at the rate of 8 per cent per annum. The testimony of Chas. H. Button shows that applicant has an opportunity of refunding this indebtedness through the issue of a note bearing interest at the rate of 7 per cent per annum payable semiannually.

## ORDER.

A hearing having been held in the above entitled matter and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the \$10,000 note referred to in this application is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Lindsay Home Telephone and Telegraph Company be and it is hereby authorized to issue a 7 per cent note payable on or before three years after date for the principal sum of \$10,000 for the purpose of paying or refunding the \$9,500 indebtedness referred to in this application and reimbursing its treasury to the extent of \$500 on account of earnings invested in plant and equipment.

The authority herein granted is subject to further conditions as follows:

1. That within thirty days after the issue of the note herein authorized, applicant shall file with the Commission a copy of the note.

2. The authority herein granted will become effective upon the payment by applicant of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and will expire on July 1, 1923.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of March, 1923.

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DECISION No. 11818.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED UTILITIES COMPANY, OF COMPTON, CALIFORNIA, FOR AUTHORITY TO ISSUE A NOTE AND TO EXECUTE A MORTGAGE.

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Application No. 8736.

Decided March 19, 1923.

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*Lon Dunn*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application, Consolidated Utilities Company asks permission to execute a mortgage and to issue a three-year 7 per cent note in the principal amount of \$4,000.

A public hearing was held before Examiner Williams in Los Angeles on March 10, 1923.

Consolidated Utilities Company is engaged in the business of giving telephone service to about 1240 subscribers in Gardena, Compton, Moneta, Hynes and Clearwater and surrounding territory, operating with three central offices; one at Compton, another at Gardena and the third at Hynes. The company reports that the owners of the building it now occupies for its central office in Compton have offered it \$3,000 to surrender its lease, which is said to run for a period of about fourteen years and calls for a monthly rental of \$25. The record shows that this offer has been accepted and that \$2,000 has been used to purchase a lot in Compton, which is fifty by one hundred and fifty feet in dimensions. It is proposed to use the remaining \$1,000 and the \$4,000 received on the note asked for in this proceeding, to pay the cost of erecting a building suitable for the company's use for its general office and switchboard and other equipment. The structure contemplated will be a one-story Class "A" reinforced concrete building, 32 feet wide and 44 feet long, with the rear end constructed so as to permit of enlargement when additional facilities and equipment may be found necessary. In addition a hollow tile or concrete garage with room for

at least three cars and storage for supplies will be erected on the same lot. It is thought by applicant's officers that the new location will be more favorable than the present one, and that the ownership of its office will be advantageous to applicant.

Lon Dunn, applicant's manager, testified that while arrangements have been made to borrow the \$4,000 it had not yet been advised whether or not it would be called upon to secure the payment of its note by a mortgage. The company asks the Commission to include in its order, authority to execute a mortgage of the lot and buildings mentioned herein to secure the payment of the \$4,000 note, in case the execution of such a mortgage is found necessary. A copy of this proposed mortgage has been filed in this matter.

#### ORDER.

Consolidated Utilities Company having applied to the Railroad Commission for authority to execute a mortgage and to issue a note, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purpose specified herein, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Consolidated Utilities Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed in this proceeding.

*It is hereby further ordered*, that Consolidated Utilities Company be and it is hereby authorized to issue a three-year 7 per cent note in the principal amount of \$4,000 and to use the proceeds to pay in part the cost of constructing the buildings referred to in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of such mortgage as to such other legal requirements to which said mortgage may be subject.

(2) In the event that applicant executes a mortgage, it shall file a certified copy thereof with the Commission within thirty days after the execution of such mortgage.

(3) Applicant shall keep such record of the issue and delivery of the note herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General

Order No. 24, which order in so far as applicable, is made a part of this order.

(4) The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and will expire on August 15, 1923.

Dated at San Francisco, California, this nineteenth day of March, 1923.

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DECISION No. 11819.

IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, AND SPRING VALLEY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING A LEASE OF CERTAIN PROPERTIES FROM SPRING VALLEY WATER COMPANY TO THE CITY AND COUNTY OF SAN FRANCISCO.

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Application No. 8715.

Decided March 21, 1923.

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BY THE COMMISSION.

**ORDER.**

Spring Valley Water Company asks permission to lease to the city and county of San Francisco for a term of fifteen years a tract of land (approximately 170 acres) lying generally between the northerly and southerly arms of Laguna de la Merced. A more complete description of the properties is contained in the lease, a copy of which is on file in this proceeding and marked "Exhibit 1." The terms and conditions under which the company proposed to lease the properties to the city and county of San Francisco are also set forth in the lease. The lessee under the lease can use the properties for a golf course and playground purposes only. By the terms of the lease, the properties are protected from any act or thing which may injuriously affect the use or value thereof for or in connection with the water supply of the city and county of San Francisco.

The Commission has considered applicants' request and is of the opinion that a hearing is not necessary in this proceeding and that the application should be granted; therefore,

*It is hereby ordered*, that Spring Valley Water Company be and it is hereby authorized to lease to the city and county of San Francisco the properties described in "Exhibit 1" filed in this proceeding, said properties to be leased pursuant to the terms and conditions set forth in such "Exhibit 1."

Dated at San Francisco, California, this twenty-first day of March, 1923.

## DECISION No. 11823.

ROSENBERG BROS. AND COMPANY, GROWERS RICE MILLING COMPANY, C. E. GROSJEAN RICE MILLING COMPANY, SACRAMENTO VALLEY RICE MILLING COMPANY, THE NATIONAL RICE MILLS, CALIFORNIA STATE RICE MILLING COMPANY, DUPONT, CARLETON AND COMPANY, M. J. BRANDENSTEIN AND COMPANY, NATOMA RICE MILLING COMPANY AND M. PHILLIPS AND COMPANY,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, SACRAMENTO-NORTHERN RAILROAD.

Case No. 1744.

Decided March 21, 1923.

*E. W. Hollingsworth, E. T. Boyd and Bishop and Bahler, for Complainants.  
Frank B. Austin, for Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company.  
Charles R. Detrick and John Stone, for Sacramento-Northern Railroad.  
L. H. Rodebaugh, for San Francisco-Sacramento Railroad Company.*

BY THE COMMISSION.

## OPINION ON FURTHER HEARING.

In our original report in this proceeding, Decision No. 10895, of August 23, 1922, we found that the intrastate rates charged by the defendant carriers for the transportation of carload shipments of paddy rice from numerous shipping points within the state to various milling points between January 7, 1922, and July 1, 1922, were unreasonable to the extent that they exceeded by more than 25 per cent the rates concurrently applicable between the same points on whole grain. The case was set for further hearing "to give the complainants an opportunity to make the necessary proof of shipments so that the Commission may determine to whom reparation shall be awarded, if any, on the shipments here involved and in what amounts."

Numerous exhibits were filed at the further hearing giving details as to the dates of shipment, car numbers, weights, amount of freight paid, etc., and testimony was offered by representatives of the several complainants to the effect that the freight charges had been paid by them, and in no case charged back to the shipper. This testimony was offered in support of the complainants' claims for reparation and apparently on the theory that having paid rates found by us to be unreasonable, reparation to the complainants would follow as a matter of law. This position, however, is not legally sound. The law is well settled that the measure of damage in cases such as this is the difference between the unreasonable rate paid and the rate found by us to be reasonable. It is also well settled that the person suffering damage and the one to

whom reparation shall be paid is he who has not only paid but also borne the unreasonable charge. The mere payment of freight charges is not sufficient to entitle one to an award of damages; he must also have borne the unreasonable charges as such. Do the complainants herein meet these requirements of the law?

The record indicates that paddy rice is generally purchased by the mills f. o. b. shipping point, and that the freight charges thereon are actually paid by the mills and not charged back against the grower. In making purchases at any given shipping point the price paid the farmer for the paddy is based upon the price prevailing on that date for clean rice in San Francisco, consideration being given to the freight rate from the shipping point to San Francisco. For example, if rice of the same quality were purchased on a given day at Riceton and Merritt, from which points the rates to San Francisco were 25.5 cents and 15 cents, respectively, the Riceton grower would have received, according to the testimony of Mr. Grosjean, a lower price for his paddy than the grower at Merritt, or to quote the witness, "relatively we paid a higher price where the freight is lower." The witness further testified that if the freight rate from Merritt had been 13 cents instead of 15 cents, the grower would have received 2 cents per 100 pounds more for his paddy than he actually received. The representative of M. J. Brandenstein and Company testified that in making purchases of paddy rice, his company pursued the same general course that has just been explained. The manager of the rice department of Rosenberg Bros. and the secretary of the Growers Rice Milling Company testified that where purchases were made at two different shipping points on the same day, the rice being of the same quality, the grower at the higher rated point would be paid less for his rice, the difference being represented by "approximately the difference in the freight rate" and "as nearly as possible" by that difference. The secretary of the Natoma Rice Milling Company testified "Our basis of figuring is on that basis; we may get it for less but not more." The owner of the Sacramento Valley Rice Milling Company, was asked the following question by the examiner:

So that you had a basic price that you paid f. o. b. milling points for a certain quality of rice and in making your purchases at the shipping points you paid the farmer the basic price at milling points, less the freight rate from the shipping point to the milling point?

Answer: Absolutely.

The testimony of these witnesses has been set forth in some detail because it shows conclusively that although the complainants herein paid the freight charges they were actually borne by the growers. It is doubtless true that in all cases the shipments of paddy rice here involved were not purchased on a basis of the price prevailing at San Francisco on clean rice less the freight rate from the shipping point

to that destination. Competitive conditions existing at the time of purchase, the desire or need of a particular mill, or the needs of an individual grower brought about conditions favoring bargain and sale, but the record makes it clear beyond question that the basis here described in detail was the general basis upon which the greater part of the rice involved in this complaint was purchased. This being true, it follows as a matter of law, that the damage resulting from the assessment of rates found in our original report to have been unreasonable, fell upon and was sustained, not by the millers, the complainants herein, but by the growers, from whom the rice was purchased. The latter are not parties complainant to this proceeding. The case must therefore be dismissed, the complainants having failed to prove that the freight charges on the rice shipments here involved were paid and borne by them, and that they have been damaged as a consequence thereof.

An order to that effect will be entered.

#### ORDER.

This case being at issue upon complainant and answers on file, and having been duly heard and submitted by the parties, a full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby ordered*, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-first day of March, 1923.

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#### DECISION No. 11824.

IN THE MATTER OF THE APPLICATION OF DRAYMEN'S TRANSPORTATION ASSOCIATION, A NONPROFIT CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR FREIGHT SERVICE FOR THE TRANSPORTATION OF HOUSEHOLD GOODS, PIANOS AND FURNITURE, BETWEEN MARYSVILLE, STOCKTON, SACRAMENTO, OAKLAND, VALLEJO, SAN FRANCISCO, NAPA, AND ALL INTERMEDIATE POINTS.

#### Application No. 7561.

IN THE MATTER OF THE APPLICATION OF DRAYMEN'S TRANSPORTATION ASSOCIATION, A NONPROFIT CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR FREIGHT SERVICE FOR THE TRANSPORTATION OF CAPACITY LOADS OF FREIGHT AND AGRICULTURAL PRODUCTS, BETWEEN VALLEJO, RODEO, PINOLE, SAN PABLO, RICHMOND, BERKELEY, OAKLAND, VALLEJO, NAPA, BENICIA, MARTINEZ, BAY POINT, PITTSBURG, CORDELIA, FAIRFIELD, SUISUN, VACAVILLE, WALNUT CREEK, LAFAYETTE.

#### Application No. 7562.

IN THE MATTER OF THE APPLICATION OF DRAYMEN'S TRANSPORTATION ASSOCIATION, A NONPROFIT CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE

A MOTOR FREIGHT SERVICE FOR THE TRANSPORTATION OF CAPACITY LOADS OF FREIGHT AND AGRICULTURAL PRODUCTS, BETWEEN BETHANY, WAVERLY, TRACY, PETERS, LATHROP, LINDEN, FRENCH CAMP, BELLOTA, RIPON, WATERLOO, MANTECA, LOCKEFORD, ATLANTA, CLEMENTS, COLLEGEVILLE, VICTOR, ESCALON, ACAMPO, OAKDALE, FOREST LAKE, VALLEY HOME, WOODBRIDGE, FARMINGTON, LODI, NEW HOPE, NEW HOPE LANDING, TERMINOUS, WALNUT GROVE, STOCKTON, UNION ISLAND AND VICTORIA ISLAND.

Application No. 7563.

IN THE MATTER OF THE APPLICATION OF DRAYMEN'S TRANSPORTATION ASSOCIATION, A NONPROFIT CORPORATION, FOR CERTIFICATION OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR FREIGHT SERVICE FOR THE TRANSPORTATION OF CAPACITY LOADS OF FREIGHT AND AGRICULTURAL PRODUCTS, BETWEEN SACRAMENTO, FREEPORT, COURTLAND, WALNUT GROVE, ISLETON, RIO VISTA, UNION HOUSE, FRANKLIN, BRUCEVILLE, THORNTON, WOODBRIDGE, GALT, ARNO, McCONNELL, FLORIN, BRIGHTON, PERKINS, SLOUGH HOUSE, COSUMNE, MILLS, NATOMA, FOLSOM, ORANGEVALE, FAIR OAKS, NORTH SACRAMENTO, BEN ALI, ROSEVILLE, ROCKLIN, LOOMIS, PENRYN, NEWCASTLE, LINCOLN, SHERIDAN, WHEATLAND, MARYSVILLE, VERNON, DAVIS, WOODLAND, KNIGHTS LANDING, DIXON, VACAVILLE, ELK GROVE AND SHELDON.

Application No. 7564.

Decided March 21, 1923.

*J. M. Inman*, for Applicant.

*L. H. Bradshaw*, for Southern Pacific Company, Protestant.

*Edward Stern*, for American Railway Express Company, Protestant.

*Sanborn and Rochl and DeLancey C. Smith*, by *A. B. Rochl*, for California Transportation Company, California Navigation and Improvement Company, Sacramento-Auburn Freight Line, Eldorado Transportation Company, A. L. Phillips, C. P. Wales, M. H. Fredericks, Warner and Nickerson, and Island Transportation Company, Protestants.

*Jesse H. Steinhart and John J. Goldberg*, for San Francisco-Sacramento Railroad Company, Protestant.

*Chas. R. Detrick*, for Sacramento Northern Railroad Company, Protestant.

*Lafayette J. Smallpage*, for the White Lines, Overland Transfer, Moore Truck Company and Independent Truck Owners of San Joaquin County, Protestants.

*J. S. P. Dean*, for the Bay and River Boat Owners' Association, Protestant.

*W. A. Latta*, for the Sacramento Transfer Companies, Protestants.

*Nutter, Hancock and Rutherford*, by *John Hancock*, and *Joseph P. Malley*, for Federation of American Farmers, Protestant.

*E. H. Hart*, for the Draymen's Association of Alameda County, Protestant.

*Lerinsky and Jones*, by *Gilbert L. Jones*, for the Central California Traction Company, Protestant.

*Ira B. Langdon*, for Farm Bureau Federation of San Joaquin County, Protestant.

*A. B. Tinning*, for County of Contra Costa, Protestant.

*P. S. Brittain and T. C. Nelson*, for California Farm Bureau Federation, Sacramento County Farm Bureau, Fred Harvey of Galt, and L. C. Sears of Carmichael, Protestants.

*Preston McKinney and T. L. Smart*, for Cannery's League of California, Protestant.

*Elliott and Atkinson*, for Northern California Milk Producers' Association, Fair Oaks Civic Club and Virden Packing Company, Protestants.

*Butler and Van Dyke and W. P. Jennings*, for Central California Traction Company, Protestant.

*N. W. Hall and E. T. Lucey*, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

*Gerald Beatty Wallace*, for Lodi Growers' and Shippers' League, and Milk Producers' Association of Central California, Protestants.



*C. E. Brown*, for San Francisco. Napa and Calistoga Railway Company. Protestant.  
*George J. Bradley*, for Merchants' and Manufacturers' Association of Sacramento.  
*Bismark Bruck*, for Napa County Farm Bureau, Protestant.

BY THE COMMISSION.

#### OPINION.

Draymen's Transportation Association, a nonprofit corporation, in Application No. 7561 petitions the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck service for the transportation of furniture, household goods and pianos between Marysville, Sacramento, Stockton, Oakland, San Francisco, Vallejo, Napa and all intermediate points, also points reached by tap lines and as more fully set forth in Exhibit "B" attached to this application.

Draymen's Transportation Association, a nonprofit corporation, in Application No. 7562 petitions the Railroad Commission for an order declaring that public convenience and necessity requires the operation by it of an automobile truck service for the transportation of freight and agricultural products, in capacity loads, between Vallejo, Rodeo, Pinole, San Pablo, Richmond, Berkeley and Oakland; Vallejo and Napa; Vallejo, Benecia, Martinez, Bay Point and Pittsburg; Vallejo, Cordelia, Fairfield, Suisun and Vacaville; Vallejo, Benecia, Martinez, Walnut Creek, Lafayette, Berkeley and Oakland; and to and from all points, ranches and farms intermediate, also points reached by tap lines and as more fully set forth in Exhibit "D" attached to this application.

Draymen's Transportation Association, a nonprofit corporation, in Application No. 7563 petitions the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck service for the transportation of freight and agricultural products, in capacity loads, between Bethany, Tracy, Lathrop, French Camp, Ripon, Manteca, Atlanta, Collegeville, Escalon, Oakdale, Valley Home, Farmington, Waverly, Peters, Linden, Bellota, Waterloo, Lockeford, Clements, Victor, Acampo, Forest Lake, Woodbridge, Lodi, New Hope Landing, New Hope, Terminous and all points, ranches and farms intermediate, also points reached by tap lines, and Stockton; Union Island and all points, ranches and farms intermediate, also points reached by tap lines, and Stockton, Victoria Island, and all points, ranches and farms, also points reached by tap lines and Stockton; the routes proposed and intermediate points desired to be served being more fully set forth in Exhibits "B" and "D" attached to this application.

Draymen's Transportation Association, a nonprofit corporation, in Application No. 7564 petitions the Railroad Commission for an order declaring that public convenience and necessity requires the operation by it of a motor truck service for the transportation of freight and

agricultural products, in capacity loads, between Sacramento, Freeport, Courtland, Walnut Grove, Isleton and Rio Vista; Sacramento, Union House, Franklin, Bruceville, Thornton, Woodbridge, Galt, Arno and McConnell; Sacramento and Florin; Sacramento, Brighton, Perkins, Slough House and Cosumne; Sacramento, Brighton, Perkins, Mills, Natoma, Folsom, Orangevale and Fair Oaks; Sacramento, North Sacramento, Ben Ali, Roseville, Rocklin, Loomis, Penryn, Newcastle and Auburn; Sacramento, Roseville, Lincoln, Sheridan, Wheatland and Marysville; Sacramento and Vernon; Sacramento, Davis, Woodland and Knights Landing; Sacramento, Davis, Dixon and Vacaville; Sacramento, Elk Grove and Sheldon, and all points, ranches and farms intermediate, also points reached by tap lines, the routes proposed and intermediate points desired to be served being more fully set forth in Exhibits "B" and "D" attached to this application.

Public hearings on the above entitled applications were conducted by Examiner Handford at Stockton, Sacramento and San Francisco, the matters were duly submitted following briefs filed by counsel for certain of the protestants, and are now ready for decision.

Applicant relies as justification for the granting of the desired certificates upon the alleged fact that an enormous amount of the commodities proposed to be transported move between the points sought to be served, the despatch of which can best be accomplished by the use of motor trucks thereby eliminating the necessity of frequent handling; that applicant is in position financially to indemnify shippers against any losses occurring while shipments are in the care of carrier; that applicant understands conditions under which motor trucks should operate over highways and is desirous of cooperating with officials of governing bodies of the state in an endeavor to preserve the public highways of the state from damage by over-loaded or over-speeded trucks; that applicant is desirous of eliminating waste caused by numerous individual truck lines and unnecessary truck operation over the highways, due to non-centralization of dispatch, alleging that such unnecessary operation would be greatly decreased by authorization of the service herein prayed for by applicant.

By stipulation, the four applications were consolidated for the receiving of evidence and decision.

By stipulation it was agreed that the consideration of all the applications for authority to transport freight and agricultural products (Applications Nos. 7562, 7563 and 7564) should be on the basis of capacity loads in accordance with the classification schedule, thus eliminating the hauling of other than capacity loads, unless the shipper or consignee paid the rate scheduled for a capacity load.

By stipulation it was agreed that as to all applications herein considered, that in case rates were based on mileage, the mileage by the

shortest available route would be used as the basis for computing freight charges, thereby eliminating the necessity for patrons paying any additional mileage rate if for any reason the applicant followed a route between communities and other points herein desired to be served other than the most direct.

In accordance with permission granted at one of the hearings, applicant amended Application No. 7562 by eliminating San Pablo, Richmond, Berkeley and Oakland as points between which a local service would be offered; also stipulated that no authority was desired in Application No. 7561 to haul locally for points intermediate between Berkeley, Oakland and San Francisco, through business originating at or destined to such points being the basis upon which the application is to be considered; also amended Application No. 7561 as regards a portion of the regulations governing the application of the proposed rate schedule, as attached to the application as Exhibit "A," by substituting the words "each additional 100 lbs. over 3000 lbs., per cwt." at the heading of the column on page 1 of such exhibit in lieu of the original wording "over 3000 pounds per cwt.", and by adding on page 1 of the exhibit the item "minimum load, special trip, 3000 lbs."; also on page 2 of the exhibit adding to the first paragraph resulting in the proposed regulation reading as follows:

Each additional 100 lbs. over 3000 lbs., one cent per mile per 100 lbs. drayage; 25 cents per 100 lbs. for loading and unloading. For ferries add Benicia, 6-minute ferry for Rodeo add \$8.50 for 3000 lbs., over add .05 per hundred. Oakland-San Francisco ferry same rates apply.

Applicant was also permitted to make certain amendments to the rules and regulations appearing as a portion of the proposed tariff filed as Exhibit "A" in Applications 7562, 7563 and 7564 and to file an entirely new classification of commodities as applicable to such applications.

Applicant is a duly authorized corporation, organized under the code sections applicable to non-profit corporations and associations, and proposes to conduct its operation by leasing the equipment of its members paying therefor the amount of compensation derived from the handling of shipments to the members furnishing the equipment, less an amount which is to cover the expense of overhead, office management, dispatching and superintendence. It of course follows, that to comply with the provisions of this Commission's order in Case No. 1202, (Decision No. 5318 as decided April 17, 1918), applicant would be required to itself employ the drivers or operators of the vehicles leased from its members, the decision referred to prohibiting the leasing of equipment together with the services of a driver or operator and requiring the relationship of employer and employe to exist between operating companies and their drivers.

The management of the corporation is, according to the proposed by-laws filed as an exhibit on behalf of applicant, to be vested in a board of directors consisting of seven members holding a certificate in their firm name, and four of such directors shall constitute a quorum for the transaction of the corporation's business. The by-laws also provide that the number of members shall not be less than fifteen, and that no person shall be a member that is not a legal owner of at least one truck and actually operating for hire; also that no person, firm or corporation shall hold more than one certificate of membership in any one city. The equipment of the members available for lease by the corporation consists of 87 vehicles having a manufacturer's rated capacity of 189 tons. Applicant presents as an exhibit a statement of tonnage hauled by its constituent members during the year 1921 showing a total tonnage under the division of household goods of 4,548,-832 pounds, and under the division of merchandise and fruit products of 120,966,910 pounds. These statements do not furnish accurate information to the Commission in support of the applications herein, as a limited check of the tonnage handled by the members reporting under the caption of "household goods" shows 390,318 pounds which have been transported between points not contemplated by Application No. 7561 which covers the certificate desired for the transportation of household goods, in fact movements to or from such points as Pasadena, Fresno, Monterey, San Jose, and in the San Joaquin, Sonoma and Napa valleys and entirely beyond the scope of the applications have been included in the detail furnished. The exhibit reflecting shipments moved by the "division of merchandise and fruit products" is also difficult of interpretation as to its relation with the showing proffered by the applicant, there being 1,311,315 pounds of products transported between points having no relation whatsoever to the routes herein sought by applicant, and this portion of the exhibit is of little service to the Commission as an aid to the determination of these matters in that applicant has specifically sought separate certificates for each of the groups of routes as set forth in the individual applications as herein filed. The Commission has heretofore established the policy that no joinder of certificate rights may be made, unless application therefor has been regularly made and the Commission after appropriate proceedings has issued its certificate and order based upon its finding that the public convenience and necessity require the operation proposed to be given by an applicant.

The granting of these applications is protested by the Southern Pacific Company, American Railway Express Company, California Transportation Company, California Navigation and Improvement Company, Sacramento-Auburn Freight Line, Eldorado Transportation Company, A. L. Phillips, C. P. Wales, M. H. Fredericks, Warner and

Nickerson, Island Transportation Company, San Francisco, Sacramento Railroad, Northern Electric Railway Company, The White Lines, Overland Transfer, Moore Truck Company, Bay and River Boatmen's Association, Sacramento Transfer Companies, Federation of American Farmers, Draymen's Association of Alameda County, Central California Traction Company, Farm Bureau Federation of San Joaquin County, County of Contra Costa, California Farm Bureau Federation, Sacramento County Farm Bureau, Fred Harvey, L. C. Sears, Cannery League of California, Northern California Milk Producers' Association, Fair Oaks Civic Club, Virden Packing Company, Atchison, Topeka and Santa Fe Railway, Lodi Growers and Shippers League, Milk Producers Association of Central California, San Francisco, Napa & Calistoga Railway Company, and Napa County Farm Bureau, all of which protestants were represented by counsel at the hearings on these applications.

Written protests were received from the Federation of American Farmers-San Joaquin County Branch, the San Joaquin County Farm Bureau and the board of supervisors of San Joaquin County.

The county of Contra Costa, through its district attorney, Mr. A. B. Tinning, presented in evidence a certified copy of Ordinance No. 162 passed by the board of supervisors on January 3, 1922, such ordinance prohibiting the operation of trucks in the transportation of property or as a common carrier over certain specified highways in the county of Contra Costa, some of which would be used by applicant herein on routes specifically set forth in the applications.

Mr. Preston McKinney, vice president and secretary of the Cannery League of California, testified as to the needs of the canning industry in the transportation of fruit and vegetables both from the point of production to the cannery and in the movement of the finished product. This witness testified as to the volume of the business transacted by the members of his organization aggregating an output (fruits and vegetables combined) of 20,747,922 cases in the calendar year 1919, 16,632,809 cases in 1920, and 11,127,798 cases in 1921. It is the opinion of this witness, based on his observation and knowledge of the requirements of the canning industry, that the granting of the applications would interfere with the right to individually contract with truckmen who may desire to do business with the canneries; that the routes over which hauling to the canneries is done are infrequently regular, and that the continuance of existing conditions which are known to the industry are desirable.

Mr. M. H. Frederick, operating as an authorized carrier under the jurisdiction of the Railroad Commission between Sacramento and Lincoln, testified as to his ability to haul all merchandise offered by the

public between such points, and that for two years he had been able to satisfactorily meet the demands of the public without complaint.

Mr. A. A. Bowman, general freight and passenger agent of the California Transportation Company and traffic adviser for the California Navigation and Improvement Company, testified that his companies offered rates lower than those proposed by the applicant; that ample capacity existed for the transaction of more business upon the steamers operated by his companies, approximately 60 per cent of the capacity being utilized between San Francisco and Sacramento and approximately 80 per cent between San Francisco and Stockton. The steamer companies make a practice of utilizing additional equipment during the periods of the year when a considerable volume of farm or orchard products required to be transported and have available a reserve equipment which could be put into service if traffic conditions warranted and there existed a demand for additional service.

Mr. L. Sposito, operating freight trucks between Sacramento and Auburn under the jurisdiction of the Railroad Commission, testified that his trucks were operating at practically half their capacity, and that additional business could be handled without increasing the equipment now devoted to the public on his line.

Mr. F. W. Wales, operating the Sacramento-Folsom freight line, a carrier under the jurisdiction of the Railroad Commission, testified that he was able with his existing facilities to handle all freight offered to his line by the public and to increase his facilities if the demands of traffic should warrant.

Mr. W. L. Warner, operating under the fictitious name of Sacramento Auto Truck Company between Sacramento, Davis and Woodland, testified as to his ability to handle all shipments offered by the public over his route and that his present operations did not result in over 75 per cent of the manufacturer's rating capacity of his trucks being used.

Mr. W. S. Breton, field manager for Libby, McNeil and Libby, canners and packers, testified in protest to the applications, stating that the firm he represented preferred to continue their present practice of contracting their hauling from points of production to canneries to such individual truckmen as might be selected rather than use the service as proposed by the applicant.

Mr. W. J. Quinn, president and general manager, operating the White Lines between Stockton and Turlock, testified that his company has been able to handle all freight offered for shipment. This company has six trucks and seven trailers with a manufacturer's rating of 76½ tons and an actual carrying capacity of 114 tons.

Mr. Frank S. Boggs, a farmer residing near Stockton, testified that he uses local draymen in the transportation of his farm products and that he prefers such service on account of the familiarity of the local draymen with his shipping conditions, particularly as regards the character of roads over which his products move.

Mr. J. W. Glenn, Jr., a wholesale produce merchant at Stockton, testified that he is at present using the facilities of the White Lines and Overland Transfer and that such service is satisfactory.

Mr. H. A. Higden, employed by the Overland Transfer and Storage Company of Stockton, testified that his company operated seven trucks with a manufacturer's rating of  $29\frac{1}{2}$  tons and a carrying capacity of 35 tons. This witness believes that applicant's scheme of capacity loads is impracticable for the handling of fruit in the district in which his company operates, for the reason that much of such commodity requires movement in less than truck-load quantities. The equipment of the protestant represented by this witness is used to approximately 90 per cent of its capacity during the busy season, and to approximately 75 per cent of its capacity during the entire year.

Mr. Wm. Thomas, residing at Waterloo and engaged in the raising of grain and cattle, also an official of the San Joaquin County Branch of the Federation of American Farmers, testified that the present system of haulage, whereby negotiations were made by shippers with individual truckmen for the handling of farm products from the field to the market was perfectly satisfactory and that the rates proposed by applicant herein were, in some instances, more than double the rates that had been enjoyed under the present system of contracting with individual truckmen.

Mr. W. H. Thompson, vice president of the Pacific Fruit Exchange and a director of the Growers and Shippers League of Lodi, testified that he preferred the use of local draymen in the handling of fruit shipments—this on account of their familiarity with this particular work; that the local draymen use specially designed bodies on their equipment; and that satisfactory service has been enjoyed by the shippers by this method of handling in the past. It was stipulated that Will H. Johnston, superintendent of the Richmond and Chase Company, fruit canners, would testify approximately the same as the above witness.

Mr. W. H. Latta, operating between Stockton and Escalon, has in service two trucks with a manufacturer's rating capacity of  $4\frac{1}{2}$  tons. The trucks are not operating to their capacity and he is able to handle any freight offered along his route.

Mr. L. H. Bailey, secretary of the Lodi Growers and Shippers League, testified that his organization preferred to deal with individual truck owners for the reason that their method of operation with rates on an

hourly basis is more responsive to the needs of the fruit shippers than the plan and rates proposed by applicant.

Mr. C. E. Woodworth, a fruit grower in the Acampo district, testified that he preferred to use the services of local truckmen on account of their familiarity with the handling of green, deciduous fruits.

Mr. J. M. Bigger, farmer and real estate operator in the so-called Delta Section near Stockton, testified that he raised grain, vegetables and hay, and in the transportation of such products required service to be rendered by truckmen who were familiar with the peculiar conditions existing in the Delta region where the peat soil presents danger from fire, and offers operating conditions requiring particular knowledge and skill on the part of a truck operator to successfully conduct the business of hauling in such district.

Mr. Ralph J. Post, manager of the Woodbridge Fruit Company and a grape grower, testified that he was satisfied with the present existing conditions in that the truckmen now employed by himself and his company were particularly experienced in the handling of perishable green fruit.

Mr. G. H. Beckendorf, general manager of the Milk Producers Association of Modesto and Stockton, testified that the trucking facilities now available for the transportation of milk and dairy products and as used by his company, were adequate for its needs.

Mr. Geo. W. Ashley, superintendent of the San Joaquin County Table Grape Growers Association, a farmer, fruit grower, and fruit shipper, testified that the present practice of employing trucks on an hourly basis in the Lodi district was a most satisfactory one to the table grape industry; that the growers in the Lodi district furnished their shipments from small tracts of land and that it was frequently necessary for pick-ups to be made from a number of ranches to enable a consolidated truckload to be accumulated for movement to the packing houses or railroad platforms; that careful handling of table grapes was a primary requisite in the movement of such commodity; and that growers, packers and shippers were satisfied with the method of handling shipments by the local draymen with whom they were doing business.

Mr. Chas. Cady, a farmer residing in the Linden district, testified that the present trucking rates available in his territory were far less than those proposed by applicant herein.

Mr. G. H. Grupe, a grain farmer and stock raiser near Linden, testified that there was no necessity in his locality for the service proposed by applicant, the present available service offered by truckmen in his district being satisfactory.

Mr. Chas. H. Minahan, a wheat farmer having shipments usually destined for delivery at Stockton, testified that he was satisfied with the present available transportation facilities.



Protestants, Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, San Francisco-Sacramento Railroad Company, and American Railway Express Company, introduced exhibits showing time schedules and a comparison of class and commodity rates existing on their respective lines with those herein proposed by applicant.

The Commission has given careful study and consideration to the testimony, exhibits and briefs of counsel for protestants in these proceedings.

A somewhat peculiar condition exists in that applicant, composed of a number of individuals and companies now engaged in truck transportation, have formed an organization which seeks to operate under the jurisdiction of this Commission as a transportation entity: first, in the transportation of household goods over a specific territory, and secondly, in the transportation of merchandise, farm products, etc., over three specific districts as particularly outlined in the separate applications herein consolidated for consideration. Applicants must necessarily rely upon the evidence appearing in the record, and while such evidence shows that certain individuals or companies who propose to form constituent members of the association have heretofore, in their individual capacities, transported a considerable amount of tonnage of the character proposed to be handled in their applications, there is no showing that such tonnage has been handled in the past at rates similar to those herein proposed by applicant or that the public convenience and necessity will be served by the granting of the applications herein sought. The proposed scheme of operation as developed by the three witnesses appearing in behalf of the applications, is extremely nebulous and uncertain, and is not fully understood by the Commission, nor were the witnesses presented in support of the application, all of whom were officials of the applicant association, fully clear as to the detail covering methods of operation and the general workout of the proposed association. It has not been shown, in these proceedings, that— notwithstanding the considerable volume of tonnage transported by individuals or companies now proposing to become members of applicant association—there has been a sufficient regularity of service by any of the individuals or companies as such to justify the Commission in a declaration that such individuals or companies have been engaged in the business of transportation of property for compensation over any public highway in this state between fixed termini or over a regular route. Applicant, as an association, is now before the Commission requesting certificates of public convenience and necessity over certain designated groups of routes as particularly set forth in its applications now under consideration. Applicant has failed to produce a single witness to testify as to his satisfaction with the service heretofore rendered by any individual or company proposing to become a member of the

association now before us as applicant. On the other hand, the Commission in this proceeding is confronted by active protest from transportation companies, producers, farmers, fruit growers, canners and others. We have given, in this proceeding, particular attention to the testimony which has been received from the portion of the public who would be called upon to furnish the business proposed to be handled by applicant. The record, as regards the testimony of such witnesses, shows uniformly that the shipping public do not desire the service as herein proposed to be given by applicant. It further appears that there is no definite constructive plan presented to the Commission which to it indicates that the scheme of operation is tangible, sound, or in the interest either of the applicant or the public which it seeks to serve, the entire matter being in such state of uncertainty as to inspire grave doubt as to whether it is feasible or workable as at present proposed. The Commission is thoroughly in accord with the development of improved methods of transportation, whether same be furnished by motor trucking or other forms of carriage, but it can not approve any proposed scheme of operation which is not upon a basis indicating that operations following our authorization would be successful.

We are of the opinion and hereby find as a fact that applicant in these proceedings has presented nothing herein other than a desire to enter the business of a common carrier over the routes as set forth in the several applications herein considered; that it has presented no evidence whatsoever indicating that public convenience and necessity require the establishment of the service proposed, and under such conditions the Commission can not, under the statutory law, grant the desired certificates.

There is nothing offered to the public, under the evidence herein, in any manner superior to the present transportation facilities it now enjoys, or indicating that the applicant will be able to successfully conduct the proposed scheme of operation, and therefore the Commission is not justified in approving the applications.

#### ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted, briefs having been filed by protestant counsel, the Commission now being fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

*It is hereby ordered*, that these applications and each of them be and the same hereby are denied.

Dated at San Francisco, California, this twenty-first day of March, 1923.

## DECISION No. 11825.

IN THE MATTER OF THE APPLICATION OF MINARETS AND WESTERN  
RAILWAY COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE  
OF BONDS.

Application No. 7995. (Supplemental.)

Decided March 21, 1923.

*Goudge, Robinson and Hughes, by Herbert J. Goudge, for Applicant.*

BRUNDIGE, Commissioner.

## FIRST SUPPLEMENTAL OPINION.

In a supplemental petition filed in the above entitled matter on February 23, Minarets and Western Railway Company asks permission to issue and sell at not less than 97 per cent of their par value and accrued interest \$2,500,000 of 6 per cent serial bonds, dated November 1, 1922, and use the proceeds to pay in part the cost of building its line of railway and acquire necessary equipment. It also asks permission to execute a mortgage or deed of trust to secure the payment of the bonds and interest thereon.

Applicant is engaged in the business of constructing, maintaining and operating a standard gauge commercial steam railway beginning at or near Friant, in the county of Fresno, State of California, extending thence in a northeasterly direction to a point in the northeast quarter of the northeast quarter of section 26, township 7 south, range 22 east, M. D. B. and M., at or near the Crane Valley Dam, in the county of Madera, State of California; also from Pinedale Junction (formerly known as Setch), a station on the Clovis Branch of the Southern Pacific Company's railroad, in the said county of Fresno, to a point on the east line of section 32, township 12 south, range 20 east, M. D. B. and M., which point is distant 2367.81 feet, more or less, southerly from the northeast corner of said section, in or near the townsite of Pinedale, in said county.

The principal business that will be transacted by applicant is the hauling and carriage of logs to the mill of the Sugar Pine Lumber Company near Fresno and the hauling and carriage of lumber and lumber products from the mill to a connecting point of the Southern Pacific Company's railroad.

Applicant's engineer estimates the cost of its railroad and equipment at \$2,623,803 (applicant's Exhibit C<sup>1</sup>). Up to January 31, 1923, applicant reports that it has expended \$1,670,963.31. Substantially all of this money has been obtained from the Sugar Pine Lumber Company.

By Decision No. 10726, dated July 19, 1922, applicant was authorized to issue and sell at par, \$50,000 of common stock. This stock has been

issued, sold and paid for in cash at par. Applicant has filed a copy (Exhibit K) of its proposed mortgage or deed of trust securing the payment of the \$2,500,000 of bonds and the interest thereon. The bonds are to be dated November 1, 1922, and mature serially in the amount of \$200,000 per annum, the first series being due November 1, 1926. The mortgage or deed of trust contains an after-acquired property clause and will be a lien on all of applicant's properties except cash, accounts and bills receivable, traffic and other operating balances and other cash items. In addition, the payment of the bonds, both as to principal and interest, will be unconditionally guaranteed by the Sugar Pine Lumber Company.

The proposed guarantee (applicant's Exhibit L) reads in part as follows:

In consideration of the purchase and acceptance of said bonds by the holders thereof, as and when the same shall be sold and issued, and in consideration of the advantage to be gained by, and the benefits to accrue to, said Sugar Pine Lumber Company from the construction, equipment and operation of said railway by said Minarets and Western Railway Company, said Sugar Pine Lumber Company, by virtue of the powers given and granted by its charter and articles of incorporation, does hereby unconditionally guarantee to the holders of said bonds, and each of them, the prompt payment of the principal amount thereof when the same shall become due and payable (whether at maturity thereof or by declaration, or otherwise), and of interest thereon at the rate of six (6%) per cent per annum on the semiannual dates mentioned in said bonds, and also the due fulfillment of all of the terms, covenants and conditions of the indenture securing said bonds, dated as of November 1, 1922, to be performed by said Minarets and Western Railway Company, hereby consenting to any extensions of time or other indulgences which may be granted in respect to the payment of said principal amount and/or interest, or any part thereof, or the fulfillment of said terms, covenants and conditions of said indenture, or any thereof.

I herewith submit the following form of supplemental order:

#### FIRST SUPPLEMENTAL ORDER.

Minarets and Western Railway Company, having applied to the Railroad Commission for permission to issue \$2,500,000 of first mortgage 6 per cent serial gold bonds and to execute a mortgage or deed of trust securing the payment of such bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Minarets and Western Railway Company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding and marked "Applicant's Exhibit K", provided that the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only, and is granted in

so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject;

*It is hereby further ordered*, that Minarets and Western Railway Company be and it is hereby authorized to issue and sell at not less than 97 per cent of their face value and accrued interest, \$2,500,000 of first mortgage 6 per cent serial gold bonds referred to in this application, and use the proceeds to pay in part the cost of acquiring and constructing the properties described in applicant's Exhibit C<sup>1</sup>.

The authority herein granted is subject to further conditions as follows:

(1) Minarets and Western Railway Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, and upon the execution of the mortgage and the guarantee referred to in this first supplemental order.

(3) Applicant shall file with the Railroad Commission a certified copy of the mortgage or deed of trust which it executes pursuant to the authority granted herein, also a certified copy of the guarantee which will be executed by the Sugar Pine Lumber Company.

(4) The authority herein granted to issue bonds will expire on November 1, 1923.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of March, 1923.

## DECISION No. 11827.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, TO CONSTRUCT AND OPERATE AND MAINTAIN FIVE ADDITIONAL TRACKS ACROSS EIGHTH STREET IN THE CITY OF LOS ANGELES, CALIFORNIA, BETWEEN MCGARRY STREET AND HOOPER AVENUE

Application No. 8632.

Decided March 22, 1923.

*Frank Karr*, for Applicant.

BY THE COMMISSION.

## OPINION.

In this application Pacific Electric Railway Company asks authority to construct and maintain five additional team tracks at grade across Eighth street between McGarry street and Hooper avenue in the city of Los Angeles.

A public hearing was held in Los Angeles before Examiner Williams on March 13, 1923.

At the hearing applicant introduced a franchise (Ordinance No. 45739, new series) of the city of Los Angeles permitting the construction of the proposed tracks, which is filed as applicant's Exhibit No. 1.

There are at present five tracks crossing Eighth street immediately west of the proposed tracks used almost exclusively for freight switching. Commencing at the most easterly of the existing tracks, the proposed tracks are spaced at 13.5, 18.5, 54.1, 18.5 and 54.1 feet and are designed to serve a proposed team yard adjacent to McGarry street between Eighth street and Ninth street and also extending a short distance northerly of Eighth street.

The evidence shows that the new team tracks are necessary to take care of increased business, the extent of the increase being indicated from the following figures giving the number of cars received by Pacific Electric Railway from the Municipal Belt Line, Los Angeles Harbor :

In 1920-----	18,996 cars
In 1921-----	27,557 cars
In 1922-----	47,888 cars

About 95 per cent of these cars constitute car load business local to Los Angeles.

As an offset to such increase of such traffic as there would be across Eighth street, it appears that due to a change in the location of the transfer track of Southern Pacific Company and applicant, now located at Eighth street and Alameda street, there will be a very large reduction in the number of cars actually switched across Eighth street adjacent to the proposed tracks, the team track business on the new tracks being considerably less than the transfer railroad traffic to be diverted.

No objection was made to the granting of the application. Applicant stipulated that it would not oppose an order containing the same condition as condition No. 1 of Decision No. 11136 providing, in brief, that applicant shall not use the granting of this crossing as an argument against any terminal unification plans of the Commission and the order will impose this condition.

Applicant's franchise provides that trains shall not be operated over Eighth street at a speed greater than eight miles per hour and that applicant shall maintain a human flagman for eighteen hours each day at the crossing, or in the event that this flagman is not maintained, then all switching shall be done between seven p.m. and six a.m. Applicant stated that this arrangement was satisfactory and the order will provide that a human flagman shall be placed on duty at the crossing for this period between such hours as the Commission may hereafter direct.

#### ORDER.

Pacific Electric Railway having applied to the Commission for permission to construct five spur tracks at grade across Eighth street between Hooper avenue and McGarry street, city of Los Angeles, a public hearing having been held, the matter having been submitted;

*It is hereby ordered*, that Pacific Electric Railway Company be and it is hereby authorized to construct five spur tracks at grade across Eighth street, between Hooper avenue and McGarry street, city of Los Angeles, county of Los Angeles, described as follows:

Commencing at a point in the northerly line of Eighth street, distant westerly 10.37 feet from the intersection of said northerly line with the northerly prolongation of the westerly line of McGarry street; thence southerly across Eighth street, 62.24 feet to a point in the southerly line of Eighth street, distant westerly 10.37 feet from the westerly line of McGarry street.

Also, commencing at a point in the northerly line of Eighth street, distant westerly 66.5 feet from the intersection of said northerly line with the northerly prolongation of the westerly line of McGarry street; thence southerly across Eighth street, 62.24 feet to a point in the southerly line of Eighth street, distant westerly 66.5 feet from the westerly line of McGarry street.

Also, commencing at a point in the northerly line of Eighth street, distant westerly 85.7 feet from the intersection of said northerly line with the northerly prolongation of the westerly line of McGarry street; thence southerly across Eighth street, 62.24 feet to a point in the southerly line of Eighth street, distant westerly 85.7 feet from the westerly line of McGarry street.

Also, commencing at a point in the northerly line of Eighth street, distant westerly 141.81 feet from the intersection of said northerly line with the northerly prolongation of the westerly line of McGarry street; thence southerly across Eighth street, 62.24 feet to a point in the southerly line of Eighth street, distant westerly 141.81 feet from the westerly line of McGarry street.

Also, commencing at a point in the northerly line of Eighth street, distant westerly 161.01 feet from the intersection of said northerly line with the northerly prolongation of the westerly line of McGarry street; thence southerly across Eighth street, 62.24 feet to a point in the southerly line of Eighth street, distant westerly 161.01 feet from the westerly line of McGarry street.

All of the above as shown by the map (C. E. 5759) attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding one (1) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall not use the granting of this application either by way of defense or argument on the ground of capital expenditure or in any other way against any order of this Commission heretofore or hereafter made providing for any railroad unification or terminal plans in the city of Los Angeles.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

(7) Applicant shall at its own expense maintain a human flagman for the protection of said crossings eighteen consecutive hours each day, said hours to be as hereafter directed by the Commission.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this twenty-second day of March, 1923.



DECISION No. 11828.

WILLIAM DUELKS

*vs.*

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1837.

Decided March 22, 1923.

*Eugene A. Holmes, for Complainant.**Frank Kurr and Hubert Starr, for Defendant.*

BY THE COMMISSION.

## OPINION.

In this complaint William Duelks asks that defendant be directed to maintain human flagmen continuously during the twenty-four hours of each day for the protection of Manchester avenue crossing of Pacific Electric Railway Company and that the bell on the existing automatic flagman at this crossing be discontinued.

A public hearing was held before Examiner Williams in Los Angeles on March 13, 1923.

Manchester avenue is an important highway in Los Angeles County running east and west and crossing the right of way and four tracks of the Pacific Electric Railway Company. At the crossing, proceeding westerly, these tracks are described as follows:

- Northbound local and freight track;
- Northbound through-passenger track;
- Southbound through-passenger track;
- Southbound local and freight track;

Over part of the crossing a spur track in the last above named into defendant's material yards.

The roadway of Manchester avenue is approximately thirty feet in width with an oiled rock surface. At the southwest corner of the crossing there is an automatic flagman with bell. East of the crossing there is a street parallel to the right of way forty feet in width north of Manchester avenue and sixty feet in width to the south. On the west side of the tracks and on the north side of Manchester avenue there is a grocery store, the east face of which is approximately eight feet from the right of way fence and eighteen feet from the center line of the southbound local track. On the south side of Manchester avenue there is a tight board fence up to the right of way fence.

A number of residents in this vicinity testified that from their experience and in their judgment the crossing is dangerous. Their reasons were that the automatic flagman was often out of order; that because the cars on the local southbound track stopping to unload on

the north side of Manchester avenue obscured the view of the high-speed trains on the southbound through-passenger track, and it appears also that the grocery store seriously cuts off the view of approaching trains. Several witnesses stated that a traveler in an automobile had to nearly go onto the southbound local track before he could ascertain by looking whether or not cars were approaching. In some instances grade of approach appears to be a troublesome factor in approaching the crossing from the west. There are no bright street lamps illuminating the crossing.

The defendant introduced evidence that in the seven months, May to November, 1922, the automatic flagman was inspected 162 times, that there were six cases of reported trouble and that the automatic flagman was actually found out of order but once, and that this was remedied in two hours. This is exclusive of once when the bell was out of order when it had been battered by stones. As to muffling the bell in the automatic flagman, it was stipulated that this would be satisfactory to the complainant if a human flagman were placed on duty.

Defendant took the position that there were any number of crossings similarly located without the protection of human flagmen and that it did not think that this was necessary at this time, although it would be when the street was paved, because of the additional automobile traffic which would be invited, because Manchester avenue is what may be termed a through street. The complaint recites that on August 21, 1922, from five a.m. to seven p.m., 323 express passenger trains, 247 local passenger trains and 50 freight trains passed over Manchester avenue crossing. At the hearing it developed that the 50 freight trains included baggage and express cars. The complaint also recites that on July 11, 1922, 856 automobiles and 839 pedestrians passed along Manchester avenue and over the crossing between five a.m. and seven p.m. These figures were accepted by the defendant.

Taking all of the evidence into consideration it appears that the hazards existing at this crossing because of the obscured view, the large number of train movements on the four tracks and the number of travelers along Manchester avenue justify the maintenance of a human flagman at this crossing. This protection does not appear to be justified for twenty-four hours each day. Two shifts of watchmen totaling eighteen hours from six a.m. to ten p.m. seem to be sufficient and the order will so provide.

#### ORDER.

A public hearing having been held on the above entitled matter, the Commission being apprised of the facts and the matter being under submission and ready for decision;

*It is hereby ordered*, that Pacific Electric Railway Company be and it is hereby directed to employ and maintain a human flagman for the protection of its crossing at Manchester avenue, Los Angeles County, for the protection of travelers on the highway each day between the hours of six a.m. and ten p.m.

*It is hereby further ordered*, that Pacific Electric Railway Company be and it is hereby ordered, to muffle the bell on the existing automatic flagman at its crossing of Manchester avenue, Los Angeles County.

Dated at San Francisco, California, this twenty-second day of March, 1923.

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DECISION No. 11835.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED FOR GAS.

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Application No. 6326.

Decided March 28, 1923.

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GAS SERVICE—BRITISH THERMAL UNITS CONTENT FOR MIXED GAS INCREASED.—  
Los Angeles Gas and Electric Corporation ordered to increase B.t.u. content of mixed gas served in the city of Los Angeles and adjoining territory from 750 to 850 B.t.u. without increase of rates.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

The Commission, by its Decision No. 9132, dated June 22, 1921, established rates for Los Angeles Gas and Electric Corporation, for the service of mixed gas having an average heating value of 750 B.t.u. per cubic foot. The rates then fixed were based upon operations consuming considerable quantities of oil, and since that time the Commission has by supplemental orders reduced the original rates to the extent of 7 cents per 1000 cubic feet, because of reductions of oil prices. The original order made the following provision in regard to the quality of gas to be served:

*It is hereby ordered*, that Los Angeles Gas and Electric Corporation be authorized to reduce the heating standard of gas served to 750 B.t.u. per cubic foot monthly average with a maximum variation of 35 B.t.u. per cubic foot above or below this average, effective on and after July 1, 1921.

There was also included in each of the rate schedules the following paragraph providing for revision of gas rates automatically with changes in the price of oil:

The above rates are subject to an increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil above or below the price of \$1.75 per barrel upon approval of the Railroad Commission of the State of California. Change to be the nearest one cent.

It appears that the two above mentioned provisions of Decision No. 9132 should be cancelled and that the standard for gas service be

established as 850 B.t.u. per cubic foot under schedules of rates 7 cents per 1000 cubic feet less than fixed by Decision No. 9132 and without provision for automatic change of rates.

Investigations made by the Commission's gas engineering department indicate that there is now developed in Southern California a large volume of natural gas, and further there have recently been constructed new gas transmission lines delivering largely increased quantities of this natural gas to the city of Los Angeles, thereby making possible the establishment of a standard of 850 B.t.u. per cubic foot for the average quality of mixed gas served by Los Angeles Gas and Electric Corporation.

This higher quality of gas service is to the public interest and would prove to be of great benefit to the customers of Los Angeles Gas and Electric Corporation, as it would result in a saving of approximately 12 per cent to these consumers.

The Commission has called these facts to the company's attention and has proposed modifications of the order in Decision No. 9132 which fixed the present rates and standards for gas service, to (now) provide for the service of mixed gas of 850 B.t.u. quality with the present rates and regulations remaining unchanged, except that the clause covering the modification of gas price with change of oil price should be eliminated because very little oil will be used. Inasmuch as the Los Angeles Gas and Electric Corporation has agreed to these modifications of the previous order, further notice and hearing are unnecessary.

The Commission therefore concludes that Decision No. 9132 in Application No. 6326 of Los Angeles Gas and Electric Corporation for increase of rates should be modified as above indicated in regard to rates and standards of gas quality.

*It is hereby ordered*, that the provision of the order of Decision No. 9132 of the Railroad Commission fixing a gas quality of 750 B.t.u. per cubic foot be canceled, and that on and after April 1, 1923, Los Angeles Gas and Electric Corporation shall supply to its consumers gas having a monthly average heating value standard of 850 B.t.u. per cubic foot with a maximum variation of 50 B.t.u. per cubic foot above or below this average.

*It is hereby further ordered*, that the provisions of Schedules Nos. 1, 2, 3, 4 and Class A Industrial Service Limited reading:

The above rates are subject to an increase or decrease on the basis of 1 cent per 1000 cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price of \$1.75 per barrel upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

be canceled, effective April 1, 1923, and said rates as set forth in Decision No. 9132 be reduced 7 cents per 1000 cubic feet, and the Los Angeles Gas and Electric Corporation be and is hereby authorized

to charge and collect the following rates for gas for domestic and commercial purposes in its several districts, which rates shall be effective for all regular meter readings taken on and after the first day of April, 1923:

#### SCHEDULE No. 1.

##### *General service.*

Applicable to domestic and commercial service for lighting, heating and cooking. Heating quality of gas, 850 B.t.u. per cubic foot.

##### *Territory.*

Applicable to District No. 1, including territory as described under (6) "Description of Special Districts" of Preliminary Statement.

##### *Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet.....	\$0 68
Next 15,000 cubic feet per meter per month, per 1000 cubic feet.....	63
Next 30,000 cubic feet per meter per month, per 1000 cubic feet.....	58
Over 50,000 cubic feet per meter per month, per 1000 cubic feet.....	53

##### *Minimum charge.*

(1) Where four or more meters are served in one location on one service for flats and apartments, 70 cents per meter per month.

(2) For service other than stated under (1), 80 cents per meter per month.

#### SCHEDULE No. 2.

##### *General service.*

Applicable to domestic and commercial service for lighting, heating and cooking. Average heating quality of gas, 850 B.t.u. per cubic foot.

##### *Territory.*

Applicable to District No. 2, which includes the city of Pasadena and the city of South Pasadena.

##### *Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet.....	\$0 73
Next 15,000 cubic feet per meter per month, per 1000 cubic feet.....	63
Next 30,000 cubic feet per meter per month, per 1000 cubic feet.....	58
Over 50,000 cubic feet per meter per month, per 1000 cubic feet.....	53

##### *Minimum charge.*

(1) Where four or more meters are served in one location on one service for flats and apartments, 70 cents per meter per month.

(2) For service other than stated under (1), 80 cents per meter per month.

#### SCHEDULE No. 3.

##### *General service.*

Applicable to domestic and commercial service for lighting, heating and cooking. Average heating quality of gas, 850 B.t.u. per cubic foot.

##### *Territory.*

Applicable to District No. 3, which includes the city of Alhambra and the city of Huntington Park.

##### *Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet.....	\$0 78
Next 15,000 cubic feet per meter per month, per 1000 cubic feet.....	68
Next 30,000 cubic feet per meter per month, per 1000 cubic feet.....	58
Over 50,000 cubic feet per meter per month, per 1000 cubic feet.....	53

*Minimum charge.*

- (1) Where four or more meters are served in one location on one service, for flats and apartments, 70 cents per meter per month.
- (2) For service other than stated under (1), 80 cents per meter per month.

## SCHEDULE NO. 4.

*General service.*

Applicable to domestic and commercial service for lighting, heating and cooking. Average heating quality of gas, 850 B.t.u. per cubic foot.

*Territory.*

Applicable to District No. 4, which includes the following territory:

All portions not included within Districts Nos. 1, 2 and 3 served by the Los Angeles Gas and Electric Corporation, including the incorporated territories of San Marino, San Gabriel, Eagle Rock, Vernon, Watts, Inglewood, Monterey Park, Hyde Park, Hawthorne and territory adjacent to the above.

*Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet-----	\$0 83
Next 15,000 cubic feet per meter per month, per 1000 cubic feet-----	73
Next 30,000 cubic feet per meter per month, per 1000 cubic feet-----	63
Over 50,000 cubic feet per meter per month, per 1000 cubic feet-----	53

*Minimum charge.*

- (1) Where four or more meters are served in one location on one service, for flats and apartments, 70 cents per meter per month.
- (2) For service other than stated under (1), 80 cents per meter per month.

## CLASS "A" INDUSTRIAL SERVICE "LIMITED" SCHEDULE NO. 5.

*Industrial service.*

Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers now served under domestic and commercial schedules. For purposes where gas fuel is essential to continue operation, such as metal working processes, glass manufacture, special tile manufacture and the preparation of food products, etc. Average heating quality of gas, 850 B.t.u. per cubic foot.

*Territory.*

Applicable to all districts served by the Los Angeles Gas and Electric Corporation.

*Rates.*

Readiness to serve charge, \$10 per meter per month, plus consumption charge, 50 cents per 1000 cubic feet.

*Special conditions.*

Service under this schedule will be granted subject to the approval of the Railroad Commission of the State of California.

*It is hereby further ordered,* that Los Angeles Gas and Electric Corporation shall file with the Railroad Commission, within ten days of the date of this order, the foregoing modifications of its schedules of rates.

Dated at San Francisco, California, this twenty-eighth day of March, 1923.

## DECISION No. 11836.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN, AND A GENERAL ADJUSTMENT OF, ITS RATES AND CHARGES FOR GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN THE CITY OF LOS ANGELES AND VARIOUS INCORPORATED AND UNINCORPORATED TERRITORIES IN THE VICINITY OF LOS ANGELES.

Application No. 6338.

Decided March 28, 1923.

GAS SERVICE—BRITISH THERMAL UNITS CONTENT FOR MIXED GAS INCREASED.—Southern California Gas Company ordered to increase B.t.u. content of mixed gas served in the city of Los Angeles and adjoining territory from 750 to 850 B.t.u. without increase of rates.

BY THE COMMISSION.

## SIXTH SUPPLEMENTAL ORDER.

The Commission, by its Decision No. 9133, dated June 22, 1921, established rates for Southern California Gas Company, for the service of mixed gas having an average heating value of 750 B.t.u. per cubic foot. The rates then fixed were based upon operations consuming considerable quantities of oil, and since that time the Commission has by supplemental orders reduced the original rates to the extent of 7 cents per 1000 cubic feet because of reductions of oil prices. The original order made the following provision in regard to the quality of gas to be served:

It is hereby further ordered that Southern California Gas Company be authorized to reduce the heating value standard of mixed gas served to 750 B.t.u. per cubic foot monthly average with a maximum variation of 35 B.t.u. per cubic foot above or below this average, effective on and after July 1, 1921.

There was also included in each of the mixed gas rate schedules the following paragraph providing for revision of gas rates automatically with changes in the price of oil:

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

It appears that the two above mentioned provisions of Decision No. 9133 should be canceled and that the standard for gas service be established at 850 B.t.u. per cubic foot under schedules of rates 7 cents per 1000 cubic feet less than those fixed by Decision No. 9133 and without provision for the automatic change of rates.

Investigations made by the Commission's gas engineering department indicate that there is now developed in Southern California a large

volume of natural gas, and further, there have recently been constructed new gas transmission lines delivering largely increased quantities of this natural gas to the city of Los Angeles, thereby making possible the establishment of a standard of 850 B.t.u. per cubic foot for the average quality of mixed gas served by Southern California Gas Company.

This higher quality of gas service is to the public interest and would prove to be of great benefit to the customers of Southern California Gas Company as it would result in a saving of approximately 12 per cent to these consumers.

The Commission has called these facts to the company's attention and has proposed modifications of the order in Decision No. 9133 which fixed the present rates and standards for gas service, to (now) provide for the service of mixed gas of 850 B.t.u. quality with the present rates remaining unchanged, except that the clause covering the modification of gas price with change of oil price should be eliminated because very little oil will be used. Inasmuch as Southern California Gas Company has agreed to these modifications of the previous order, further notice and hearing are unnecessary.

The Commission therefore concludes that Decision No. 9133 in Application No. 6338 of Southern California Gas Company for increase of rates should be modified as above indicated in regard to rates and standards of gas quality.

*It is hereby ordered*, that the provision of Decision No. 9133 fixing a gas quality of 750 B.t.u. per cubic foot be canceled, and that on and after April 1, 1923, Southern California Gas Company shall supply to its consumers gas having a monthly average heating value standard of 850 B.t.u. per cubic foot with a maximum variation of 50 B.t.u. per cubic foot above or below this average.

*It is hereby further ordered*, that the provisions of Schedules Nos. A-1 and A-5 reading:

The above rates are subject to increase or decrease on the basis of one cent per 1000 cubic feet for each 10 cents increase or decrease, respectively, in the cost of oil as may from time to time be authorized on the system of the Los Angeles Gas and Electric Corporation, subject to the approval of the Railroad Commission of the State of California. Change to be to the nearest one cent,

be canceled, effective April 1, 1923, and said rates as set forth in Decision No. 9133 be reduced 7 cents per 1000 cubic feet, and the Southern California Gas Company be and is hereby authorized to charge and collect the following rates for gas for domestic and commercial purposes in accordance with the following schedules, which rates shall be effective for all regular meter readings taken on and after the first day of April, 1923:



## SCHEDULE No. A-1.

Los Angeles Division.

*General service—Mixed Gas.*

Applicable to the service of \$50 B.t.u. gas for domestic and commercial lighting, heating and cooking.

*Territory.*

Applicable to District No. 1 and District No. 1-A.

*Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet.....	\$0 68
Next 15,000 cubic feet per meter per month, per 1000 cubic feet.....	63
Next 30,000 cubic feet per meter per month, per 1000 cubic feet.....	58
Over 50,000 cubic feet per meter per month, per 1000 cubic feet.....	53

*Minimum charge.*

- (1) For flats and apartments where four or more meters are served from one service in one location, 70 cents per meter per month.
- (2) All service other than under (1), 80 cents per meter per month.

## SCHEDULE No. A-5.

Los Angeles Division.

*General service—Mixed Gas.*

Applicable to the service of \$50 B.t.u. gas for domestic and commercial lighting, heating and cooking.

*Territory.*

Applicable to District No. 3, which includes the following territory:

- (a) City of Beverly Hills.
- (b) That portion of the city of Los Angeles not included in District No. 1.
- (c) All incorporated and unincorporated territory served by the Southern California Gas Company not included in District No. 2.

*Rates.*

First 5,000 cubic feet per meter per month, per 1000 cubic feet.....	\$0 78
Next 15,000 cubic feet per meter per month, per 1000 cubic feet.....	68
Next 30,000 cubic feet per meter per month, per 1000 cubic feet.....	58
Over 50,000 cubic feet per meter per month, per 1000 cubic feet.....	53

*Minimum charge.*

- (1) For flats and apartments where four or more meters are served from one service in one location, 70 cents per meter per month.
- (2) All services other than under (1), 80 cents per meter per month.

*It is hereby further ordered,* that Southern California Gas Company shall file with the Railroad Commission within ten days of the date of this order the foregoing schedules of rates.

Dated at San Francisco, California, this twenty-eighth day of March, 1923.

## DECISION No. 11837.

IN THE MATTER OF THE APPLICATION OF H. P. HARRALSON THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF A TELEPHONE LINE FROM DINUBA TO GENERAL GRANT NATIONAL PARK.

Application No. 7627.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS REEDLEY - SQUAW VALLEY - DUNLAP - PINEHURST - CEDARBROOK AND CEDARS LINE TO GENERAL GRANT NATIONAL PARK.

Application No. 7694.

Decided March 28, 1923.

*Farnsworth, McClure and Burke*, by *James M. Burke*, for Applicant H. P. Harralson.

*Gallaher, Simpson and Hays*, by *W. E. Simpson*, for Applicant Reedley Telephone Company.

BY THE COMMISSION.

## FIRST SUPPLEMENTAL ORDER.

The Railroad Commission on January 3, 1923, issued its Decision No. 11464 on rehearing in the above entitled proceedings, vacating its order theretofore made on May 29, 1922, in Decision No. 10516, and by its order in said Decision No. 11464, dated January 3, 1923, denied the application of Reedley Telephone Company and granted the application of H. P. Harralson. Reedley Telephone Company having thereafter urged upon the Railroad Commission that the proceedings in these applications be reopened for the presentation of further evidence therein and for reconsideration by the Commission for the purpose of determining whether or not its order in said Decision No. 11464 of January 3, 1923, should be vacated, altered or amended in any part, the Commission on January 22, 1923, made its order reopening said proceedings and a public hearing was held thereon before Commissioner Shore at Fresno, February 19, 1923. After full consideration of the evidence presented at said hearing, and upon reconsideration of all of the evidence presented at prior proceedings in these matters, the Commission is of the opinion that the order heretofore made herein January 3, 1923 (Decision No. 11464), should be and the same is hereby amended to read as follows:

## ORDER.

The Railroad Commission hereby declares and certifies that present and future public convenience and necessity require the construction and operation by H. P. Harralson of a telephone line extending from Dinuba through Orosi, Drum Valley and Miramonte to General Grant

National Park, with an extension thereof to Badger, subject, however, to the following terms and conditions, and not otherwise; namely:

1. Unless or until authorized by this Commission, the line herein authorized to be constructed by H. P. Harralson shall not be connected at Miramonte, Camp Miramonte or Pinehurst in any manner, either directly or indirectly, with the existing or future lines of any public utility of like character now or hereafter providing telephone service at said points.

2. Unless or until authorized by this Commission, telephone service shall not be rendered by means of the lines herein authorized to be constructed by H. P. Harralson to the communities of Pinehurst, Cedars or Cedarbrook.

3. The construction of the lines herein authorized shall be commenced on or before the tenth day of April, 1923, and said construction, together with the installation of such switchboards, public toll stations and other equipment necessary for the purpose of furnishing telephone service to the public as hereinafter provided, shall be completed on or before the first day of July, 1923, unless for good cause shown the Commission may grant an extension of time within which the said construction and installations shall be completed.

4. Applicant H. P. Harralson shall publish and file with the Railroad Commission at least thirty (30) days prior to the date of completion of the construction and installations hereinabove provided, the schedules of rates for local exchange and toll service as set forth in Exhibit No. 12 heretofore filed with these proceedings, and shall continue the same in effect until otherwise authorized by this Commission.

*It is hereby ordered*, that the application of the Reedley Telephone Company for a certificate of public convenience and necessity (Application No. 7694) be and the same is hereby denied.

The effective date of this order is hereby fixed and designated as the ninth day of April, 1923.

Dated at San Francisco, California, this twenty-eighth day of March, 1923.

## DECISION No. 11840.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SAN BUENA-  
VENTURA AND SOUTHERN CALIFORNIA EDISON COMPANY FOR  
AN ORDER PERMITTING THE LATTER TO SELL TO THE FORMER  
ITS WATER DISTRIBUTING SYSTEM IN THE CITY OF VENTURA,  
CALIFORNIA.

Application No. 8735.

Decided March 29, 1923.

*D. W. Cunningham*, for Southern California Edison Company.  
*H. F. Orr*, for City of San Buenaventura.

BY THE COMMISSION.

**ORDER.**

The Southern California Edison Company, a public utility corporation, serving water for domestic and other purposes in and in the vicinity of the city of San Buenaventura, Ventura County, having applied to this Commission for permission to sell certain public utility property to the city of San Buenaventura for the sum of \$220,000, plus the amount of any expenditures made on the property from November 30, 1922, to the date of transfer, and the city of San Buenaventura having held an election which resulted in voting \$250,000 in bonds for the purchase of this water system, a public hearing having been held and the matter having been submitted; and it appearing that the interests of the consumers will be adequately served if such transfer is made, and that the application should be granted;

*It is hereby ordered*, that Southern California Edison Company be and it is hereby authorized to sell and convey to said city of San Buenaventura its certain water system, together with lands, etc., pertaining thereto, more particularly described in the form of deed attached to and accompanying the application, subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before April 30, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which Southern California Edison Company actually relinquishes control and possession of the property herein authorized to be sold, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this public utility property shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

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4. All deposits for extensions now in possession of Southern California Edison Company shall either be returned to depositors or turned over to and held by the city of San Buenaventura under the same conditions that they are now held by Southern California Edison Company.

Dated at San Francisco, California, this twenty-ninth day of March, 1923.

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DECISION No. 11845.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY TO SELL AND CONVEY PROPERTY IN THE CITY OF SAN DIEGO.

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Application No. 8814.

Decided March 29, 1923.

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BY THE COMMISSION.

**ORDER.**

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for permission to sell for \$125,000 lot "D" in block 45 of Horton's addition to the city of San Diego, county of San Diego, State of California, and the building located thereon, all as more particularly described in the above entitled application;

And the Commission having considered applicant's request and being of the opinion that this is not a matter on which a public hearing is necessary and that the application should be granted; therefore

*It is hereby ordered*, that San Diego Consolidated Gas and Electric Company be, and it is hereby authorized to sell for the sum of \$125,000 the properties described in this order and in the above entitled application.

Dated at San Francisco, California, this twenty-ninth day of March, 1923.

## DECISION No. 11854.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO MAKE CERTAIN CHANGES IN TARIFFS ADJUSTING FREIGHT RATES APPLYING BETWEEN POINTS ON THE LINES OF THE SANTA FE AND POINTS ON THE LINES OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY, THROUGH RICHMOND AND TIBURON.

Application No. 8601.

Decided March 30, 1923.

*B. Levy*, for The Atchison, Topeka and Santa Fe Railway Company.

*J. J. Geary*, for Northwestern Pacific Railroad Company.

BY THE COMMISSION.

## OPINION.

This is an application by The Atchison, Topeka and Santa Fe Railway Company for an order granting authority to correct an inadvertent omission in its rules, by which it failed to make certain changes in Item No. 1310, carried in Tariff Circular No. 2079-E, C. R. C. No. 449.

By an informal order issued June 6, 1917, The Atchison, Topeka and Santa Fe Railway Company was authorized to cancel Item No. 385, carried in its Terminal Tariff No. 8117-F, C. R. C. No. 341, governing the freight rates on traffic moving between points located on the Northwestern Pacific Railroad. The intent of the publications made in the year 1917 was to base all the rates on San Francisco, instead of partly on San Francisco and partly on Richmond, but in making the application and publishing the tariff an error was made in not at the same time making the necessary changes in Item No. 1310, carried in Transfer and Drayage Tariff No. 2079.

The purpose of this application is to straighten out the publication errors by amending Item No. 1310, so as to make reference to the provisions of Item No. 25, carried in F. W. Gomph's Local, Joint and Proportional Freight Tariff No. 16-F, C. R. C. No. 273, which provides for assessing charges to and from points on the Northwestern Pacific Railroad on rates based over San Francisco.

A hearing on the application was held before Examiner Geary at San Francisco on March 19, 1923, and the same is now ready for an opinion and order. There were no appearances in opposition, although interested shippers and chambers of commerce were notified of the proceeding. The applicant presented a number of exhibits showing that the changes would have but little, if any, effect upon revenue and that the sole purpose of the application was to correct the tariff mistakes. It also presented copies of letters received from the important shippers, advising they had no objections to the application. Several days before the hearing, the Commission received a communication from a large shipper of crushed rock, sand and gravel, objecting

to the proposed changes. The testimony of applicant's witness, however, was to the effect that there was no movement of these commodities to points on the Northwestern Pacific Railroad and that consideration would be given to publication of commodity rates if tonnage developed. The Commission also received a memorandum setting forth the commodity rates now in effect from the rock shipping points on the Southern Pacific to Northwestern Pacific points via Shellville Junction, which rates are but slightly in excess of the present combination over the Richmond station of the Santa Fe Railway Company.

Upon all of the facts appearing in the record, we are of the opinion that this application should be granted, inasmuch as the present tariff item has been continued in effect through error and inadvertence and but little revenue is involved.

#### ORDER.

Application having been made by The Atchison, Topeka and Santa Fe Railway Company for authority to correct an inadvertent omission in Item No. 1310, Tariff Circular No. 2079-E, C. R. C. 449, a hearing thereon having been held and it appearing that the application should be granted;

*It is hereby ordered*, that The Atchison, Topeka and Santa Fe Railway Company be authorized to amend its Tariff No. 2079-E, C. R. C. No. 449 in conformity with the application.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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#### DECISION No. 11855.

IN THE MATTER OF THE APPLICATION OF MANTECA TELEPHONE COMPANY, A CORPORATION, TO ACQUIRE PROPERTY AND ISSUE STOCK FOR SUCH PROPERTY AND FOR NEW CONSTRUCTION; AND APPLICATION OF C. W. FORBES AND M. A. FORBES TO SELL A TELEPHONE PLANT AND SYSTEM TO THE MANTECA TELEPHONE COMPANY.

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Application No. 8778.

Decided March 30, 1923.

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*DeLavaca and Magee*, for Applicants.

MARTIN, *Commissioner*.

#### OPINION.

The Railroad Commission is asked to make an order authorizing C. W. Forbes and M. A. Forbes to sell, transfer and convey to the Manteca Telephone Company, a corporation, all of their telephone plant, equipment and other property owned and used by them in the

operation of the Manteca telephone plant at Manteca. The Manteca Telephone Company, a corporation, asks permission to acquire the properties, to issue for the purposes indicated below \$43,500 of stock and not exceeding \$8,000 face value of notes and to execute a mortgage to secure the payment of the notes.

Manteca Telephone Company, a corporation, was organized on or about February 7, 1923, with an authorized capital stock of \$50,000, divided into 500 shares of \$100 each. Applicant, Manteca Telephone Company, asks permission to issue \$40,000 of its stock to C. W. Forbes and M. A. Forbes in payment for the telephone properties which they have agreed to sell to the corporation. In Exhibit No. 3, applicants report as of January 17, 1922, the reproduction cost of the telephone properties at \$53,690, the accrued depreciation at \$7,580 and the structural value at \$46,110. This valuation is based on prices prevailing on January 17, 1922. The historical cost of the properties appears to be approximately \$33,000. It is for the purpose of acquiring these properties that the Manteca Telephone Company asks permission to issue \$40,000 of stock. This request has been considered and we believe that the company should not issue more than \$35,000 of stock in payment for the properties.

Applicant, Manteca Telephone Company, also asks permission to issue and sell at par \$1,500 of stock to purchase a lot on which to construct an exchange building and \$2,000 of stock to obtain moneys to pay the cost of installing new cables, pole lines and provide for other necessary construction.

Applicant, Manteca Telephone Company, intends to begin forthwith the construction of a new telephone exchange building. At present the central office equipment owned by C. W. Forbes and M. A. Forbes is located in a rented building. Plans of the new building are on file in this proceeding. The cost of the new building is estimated at \$7,000. Arrangements are being made to borrow for a term of ten years such an amount of money, not exceeding \$8,000, as may be necessary to pay for the building. There has not been filed with the Commission a copy of the proposed mortgage securing the payment of the note. The Commission can not authorize the execution of a mortgage until a copy of such mortgage has been filed. The order herein will permit the issue of the stock. The issue of the note and the execution of the mortgage will be authorized by supplemental order.

The transfer of the telephone properties, which are the subject of this application, will not result in any change in the management of such properties.



I herewith submit the following form of order:

**ORDER.**

C. W. Forbes and M. A. Forbes having applied to the Railroad Commission for permission to sell to the Manteca Telephone Company, a corporation, their telephone plant and properties, and Manteca Telephone Company, a corporation, having applied to the Commission for permission to issue stock and notes and execute a mortgage, a public hearing having been held and the Railroad Commission being of the opinion that the Manteca Telephone Company, a corporation, should be authorized to issue \$38,500 of stock and not exceeding \$8,000 of notes, all as herein provided, and that the money, property or labor to be procured or paid for by the issue of such stock or notes is reasonably required by Manteca Telephone Company, a corporation; therefore

*It is hereby ordered*, that C. W. Forbes and M. A. Forbes be and they are hereby authorized to sell, transfer and convey to the Manteca Telephone Company, a corporation, all of the plant, equipment and other property owned and used by them in the operation of the Manteca Telephone Company at Manteca.

*It is hereby further ordered*, that Manteca Telephone Company, a corporation, be and it is hereby authorized to acquire such properties, to issue \$38,500 of stock and not exceeding \$8,000 face value of notes.

The authority herein granted to issue stock and notes is for the following purposes, subject to the following conditions:

(1) Of the stock herein authorized to be issued \$35,000 may be delivered to C. W. Forbes and M. A. Forbes in payment, free and clear of all encumbrances, for the telephone properties which they are hereby authorized to sell and transfer to Manteca Telephone Company, a corporation.

(2) Of the stock herein authorized to be issued, \$3,500 shall be sold by applicant, Manteca Telephone Company, a corporation, for not less than par and the proceeds used to acquire a suitable lot or parcel of land for the erection of a telephone exchange building and for the acquisition and installation of new cables and pole lines and other construction work necessary in the enlargement and repair of the telephone system at Manteca.

(3) The note herein authorized to be issued shall not be delivered until the Commission has by supplemental order authorized the execution of a mortgage securing the payment of such note. The note shall be sold for not less than face value thereof and the proceeds used to pay the cost of constructing the telephone exchange building referred to in this application.

(4) The consideration being paid for the telephone properties, which are the subject of this application, shall not be urged before this Commission, or any other public body, as a measure of value of the properties for the purpose of fixing rates or for any purpose other than the transfer herein authorized.

(5) Manteca Telephone Company shall keep such record of the issue, sale and delivery of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted to transfer properties and issue stock will become effective on the date hereof and will expire on September 1, 1923.

(7) The authority herein granted to issue a note will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and the execution of a mortgage pursuant to the terms of a supplemental order of the Commission authorizing the execution of such mortgage to secure the payment of the note.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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DECISION No. 11856.

IN THE MATTER OF THE APPLICATION OF IMPERIAL UTILITIES CORPORATION, A PUBLIC UTILITY, AND THE CITY OF MONTEREY PARK, A MUNICIPAL CORPORATION, FOR AUTHORITY TO SELL REAL AND PERSONAL PROPERTY OF SAID IMPERIAL UTILITIES CORPORATION, A PUBLIC UTILITY.

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Application No. 8701.

Decided March 30, 1923.

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*Ward Chapman* and *L. M. Chapman* by *L. M. Chapman*, for Applicant.  
*Thomas A. Berkebile*, for City of Monterey Park.

BY THE COMMISSION.

OPINION.

The above entitled matter is a joint application in which the Imperial Utilities Corporation, a public utility, asks for authority to convey to the city of Monterey Park, a municipal corporation, all its public utility water system furnishing water within the corporate limits of

Monterey Park, Los Angeles County, California. The city of Monterey Park, through its board of trustees, joins in the application.

A public hearing was held in this matter before Examiner Williams at Los Angeles, and all interested parties were duly notified and given an opportunity to appear and be heard.

The testimony shows that the city of Monterey Park, pursuant to an election duly and regularly held, authorized a bond issue in the sum of \$225,000 for the purpose of installing or acquiring a municipal water system. The city of Monterey Park therefore entered into negotiations to purchase the existing system from the Imperial Utilities Corporation. The agreed purchase price of the properties within the city limits is \$60,000, which by stipulation (Imperial Utilities Corporation's Exhibit No. 4) includes other property outside the city limits used in the service of water to the city of Monterey Park.

The city of Monterey Park agrees to take over and serve with water all the territory now served or obligated to be served by the Imperial Utilities Corporation within the city limits of Monterey Park. The Imperial Utilities Corporation has made arrangements to continue the service of water to all its consumers and territory outside the city limits. It has purchased two wells, a reservoir site and equipment to supply that territory east of the city limits, and has an agreement with the Midwick Country Club to furnish sufficient water to the small section north of the Midwick Country Club and west of the city limits of Monterey Park.

No one appeared to protest the granting of this application and it appears that the interests of the water users on this system will be best served if the transfer is made.

#### ORDER.

Joint application having been made by Imperial Utilities Corporation and the city of Monterey Park for authority to transfer certain public utility property, a public hearing having been held thereon and the matter being now ready for decision;

*It is hereby ordered*, that the Imperial Utilities Corporation be and it is hereby authorized to sell and convey to the city of Monterey Park its entire water system and equipment used in the service of water to consumers within the city limits of Monterey Park, together with lands and other property pertaining thereto, and more particularly described in Exhibit "A" attached hereto and made a part hereof, upon the following conditions and none other:

1. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a

finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as may have been made on or before June 1, 1923, and a certified copy of the instrument of conveyance shall be filed with the Commission by Imperial Utilities Corporation within thirty (30) days from the date on which it is executed.

3. Within ten (10) days from the date on which Imperial Utilities Corporation actually relinquishes control and possession of the properties herein authorized to be transferred, it shall file with the Railroad Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this thirtieth day of March, 1923.

#### EXHIBIT "A".

##### *Parcel No. 1.*

Lot A Ramona Acres, plat 2, book 11, page 50 of maps in the office of the county recorder of Los Angeles County.

##### *Parcel No. 2.*

Lot 264, Ramona Acres, plat 2, as per book 16, pages 134-135 of maps, records of Los Angeles County, including four-room house.

##### *Parcel No. 3.*

South 50 feet of Lot No. 3, block K, tract No. 786, as per book 16, pages 58-59 of maps, records of Los Angeles County.

##### *Emerson Street Pumping Plant.*

Pump house and derrick well 24 inches diameter by 300 feet deep.

Surge reservoir (concrete).

Four-inch 2-stage centrifugal pump—40 h.p. motor.

Layne-Bowler turbine pump—30 h.p. motor.

Installation and wiring.

##### *Chandler Street Pumping Plant.*

Pump house.

Well 16 inches diameter by 475 feet deep.

Forebay (concrete).

Three-inch single stage pump—20 h.p. motor.

Eighteen-inch by 12-inch Luitweiler pump—25 h.p. motor.

Installation and wiring.

##### *Steel Tank and Foundations.*

Two hundred fifty thousand gallons.

Services	-----	1089
Meters	-----	910

*Pipe Line Within the City Limits of Monterey Park.*

On	Between	Feet	Kind of pipe
Hathaway	South of Hellman	500	5" R.S.
Wilson	Hellman to Garvey	2610	5" R.S.
Chandler	Hellman to Garvey	2610	5" R.S.
Moore	Hellman to Garvey	2610	5" R.S.
Ynez	Hellman to Garvey	2610	5" R.S.
McPherrin	Hellman to Garvey	2610	5" R.S.
Huntington	Hellman to Garvey	2610	5" R.S.
Baltimore	Hellman to Garvey	2610	5" R.S.
Garfield	Hellman to Garvey	2610	4" R.S.
Hunt	Hellman to Garvey	2610	4" R.S.
Nicholson	Hellman to Garvey	2610	4" R.S.
Alhambra	Hellman to Garvey	2610	4" R.S.
Sierra Vista	Hellman to Garvey	2510	4" R.S.
Rural Drive	Hellman to Garvey	2510	4" R.S.
Farmland	Hellman to Garvey	2510	4" R.S.
Farmland	Hellman to Garvey	100	4" O.D. Casing
Gladys	Garvey north to end	750	4" R.S.
Gladys	Garvey north to end	1300	4" O.D. Casing
Florence	Garvey north to end	750	4" R.S.
Florence	Garvey north to end	1300	4" O.D. Casing
Elizabeth	Garvey north to end	750	4" R.S.
Elizabeth	Garvey north to end	1300	4" O.D. Casing
Hellman	Hathaway to Alhambra	5690	6" R.S.
Hellman	Farmland to New	1460	4" O.D. Casing
Hershey	Farmland to New	1430	4" R.S.
Pomelo	Newark to Graves	1540	4" R.S.
Pomelo	Newark to Graves	100	1" S. S.
Orange	Garvey to Mabel	440	4" R.S.
Orange	Newark to Graves	1640	4" R.S.
Sefton	Newark to Graves	1560	4" R.S.
Alhambra	Newark to Graves	1560	4" R.S.
Everett	Peach to Graves	950	4" R.S.
Russell	Newark to Graves	1560	4" R.S.
Lemon	Garvey to Graves to tank	2750	14" R.S.
Garfield	Garvey to Graves	2810	4" R.S.
Ramona	Garvey to Graves	1260	4" R.S.
Ramona	Garvey to Graves	1250	2" S.S.
McPherrin	Garvey S. to end	1320	4" R.S.
McPherrin	Garvey to Emerson to pump	1430	14" R.S.
Ynez	Garvey S. to end	1320	4" R.S.
Moore	Garvey S. to end	1320	4" R.S.
Chandler	Garvey S. to end	1320	4" R.S.
Chandler	Pump H. to Emerson	1180	10" R.S.
Wilson	Garvey to S. end	1040	4" O.D. Casing
Cecil	Lemon to Graves	890	2" S. S.
Graves	Orange W. to end	312	4" R.S.
Mabel	Orange E. to end	580	4" R.S.
Emerson	Wilson to Pump	1900	12" R.S.
Peach	Alhambra to Everett	450	4" R.S.
Peach	Everett W. to end	200	2" S. S.
Garvey	McPherson to Lemon	1940	14" R.S.
Newmark	Lemon to New	3920	8" R.S.
Garvey	Lemon to New	3920	8" R.S.
Newmark	McPherrin east	260	2" S. S.
Newmark	Ramona east	270	2" S. S.
Mabel	West to city limits	1000	4" O.D. Casing
Newmark	City limits E. and S. to end	800	4" O.D. Casing
Emerson	Nicholson east	270	2" S. S.

And including such other pipe lines, meters or services lying within the corporate limits of the city of Monterey Park as are now owned by the Imperial Utilities Corporation to serve water for domestic or irrigation purposes.

*Pipe Lines Outside the City Limits of Monterey Park.*

(a) All that pipe installed and lying in and along Garvey avenue, San Gabriel township, Los Angeles County, California, west of Wilson avenue, Monterey Park, California, being approximately nine hundred ninety (990) feet;

(b) All that pipe installed and lying in and along Marguerita avenue, south of Garvey avenue, San Gabriel township, Los Angeles County, California, being approximately nine hundred (900) feet;

(c) All that pipe installed and lying in and along Newmark avenue, west of Marguerita avenue, San Gabriel township, Los Angeles County, California, being approximately one hundred (100) feet;

(d) All that eight (8) inch pipe installed and lying in and along the west side of New avenue, San Gabriel township, Los Angeles County, California, between Hellman and Garvey avenues, being approximately two thousand six hundred forty (2640) feet;

(e) All that eight (8) inch pipe installed and lying in and along the east side of New avenue, San Gabriel township, Los Angeles County, California, between Newmark and Edwards avenues, being approximately six hundred sixty (660) feet;

(f) All that four (4) inch pipe installed and lying in and along the east side of New avenue, San Gabriel township, Los Angeles County, California, extending south from Edwards avenue to a point approximately four hundred (400) feet south of Edwards avenue, being approximately four hundred (400) feet;

(g) All pipe lines connecting the above described pipe and pipe lines with property located within the city of Monterey Park or in process of annexation to the city of Monterey Park.

## DECISION No. 11868.

IN THE MATTER OF THE APPLICATION OF CARSON-TAHOE TRANSPORTATION COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AUTOMOBILE SERVICE BETWEEN LAKESIDE (STATE LINE), CALIFORNIA, AND TAHOE CITY, CALIFORNIA.

Application No. 8649.

IN THE MATTER OF THE APPLICATION OF A. L. RICHARDSON, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF PIERCE ARROW STAGE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE PASSENGER STAGE LINE AS A TRANSPORTATION COMPANY BETWEEN TALLAC, LAKESIDE, FALLEN LEAF, TAHOE CITY, CALIFORNIA, AND INTERMEDIATE POINTS IN CONJUNCTION WITH AS PART OF AND AS AN EXTENSION TO THE PASSENGER SERVICE NOW BEING RENDERED BY SAID APPLICANT BETWEEN SACRAMENTO, PLACERVILLE, TALLAC, LAKESIDE AND FALLEN LEAF, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 8675.

Decided March 30, 1923.

*W. D. Alexander*, for Applicant in Application No. 8649.

*Harry A. Encell*, by *James A. Miller*, for Applicant in Application No. 8675.

*J. M. Fulton*, for Southern Pacific Company, Protestant.

*C. W. Nelson*, for Lake Tahoe Railway and Transportation Company, Protestant.

*Harry A. Encell*, by *James A. Miller*, for Pierce Arrow Stage, Protestant against Application No. 8649.

BY THE COMMISSION.

## OPINION.

These two applications, heard before Examiner Eddy at Truckee on February 20, 1923, were consolidated for hearing and will be disposed of in one report.

Both applications seek a certificate of public convenience and necessity to operate an automobile stage service during the summer season for the transportation of passengers, baggage and express between Lakeside, Tallac, Tahoe City and intermediate points on Lake Tahoe.

The applicant Richardson is, and for several years past has been, operating the Pierce Arrow Stage Line between Sacramento and Tallac via Placerville, in the course of which Lakeside is served although it is not directly intermediate but is located off the main highway. The application of the Carson-Tahoe Transportation Company seeks permission to operate a passenger service between Lakeside and Tahoe City via Tallac in connection with a mail stage now operated by it between Carson City, Nevada and Bijou and Al Tahoe on Lake Tahoe just across the California state line.

The hearing developed certain facts of an astonishing nature and a situation so serious as to require a complete discussion thereof. It appears from Richardson's own testimony that for the past three years, at least, he has been actually operating over the route in ques-

tion, conducting a service in the manner now applied for and as an extension of his line from Sacramento to Tallac. His operations beyond Tallac during this entire period have been conducted without authority from this Commission and were, therefore, in violation of the statutes. The facts merit plain speaking and warrant our most severe condemnation. Occasionally we are called upon to deal with situations in which it is alleged that a common carrier service by automobile is being conducted without the necessary authority from us. Our investigation not infrequently discloses that the operations complained of have been carried on without knowledge of the requirements of the statutes and with no intention to violate the law. These unlawful operations are ordinarily not extensive and occur in more or less remote districts in the state. Where such conditions have been shown to exist we have, in the exercise of the discretion permitted under the statutes, been as lenient as the facts of record seemed to warrant. No circumstances exist here, however, which require the showing of any leniency toward this applicant. The operations of Richardson beyond Tallac have been conducted with full knowledge on his part that they were unlawful and in absolute defiance of the law. Knowing full well, both the requirements and penalties of the statutes, he has nevertheless continued for some years to conduct a transportation service beyond Tallac, openly and in wilful disregard of the law. The illegal operations were not occasional or sporadic in character and were not even masked under the thin disguise of a rent car service. According to his own testimony, which testimony was substantiated by one of his witnesses who had lived at Tallac for several years, he has operated a car from that point to resorts on Lake Tahoe in the direction of Tahoe City "practically every night." In order to be in a position successfully to compete for the passenger traffic to resorts on Lake Tahoe between Tallac and Tahoe City, the applicant has permitted the impression to prevail in the office of his agents, the Peck-Judah Company at San Francisco and the stage office at Sacramento, that passengers would be handled beyond Tallac, and the public has been so informed. Richardson testified that perhaps one-third of the passengers ticketed over his Pierce Arrow Line to Tallac were actually destined to resorts beyond Tallac and that during the past three seasons he has transported from Tallac to four resorts on the west side of the Lake, more than 4500 passengers. Had he not held himself out to perform this service beyond Tallac he would not have been able to secure the large volume of passenger traffic he has handled to Lake Tahoe resorts. In the performance of this service not covered by his operative rights he was unwilling, however, to assume the obligations of a common carrier if those obligations could be avoided. In other words, if but one or two passengers desired



transportation beyond Tallac, Richardson was under no legal obligation to transport them and could do so or not as he saw fit, but if the number of passengers made it worth while financially he would transport them to their destinations beyond Tallac at a fixed charge per passenger. To state the situation plainly, his operations have been conducted in a manner to meet his own wishes and with the expectation of continuing this form of operation just so long as he could "get away" with it. The filing of an application by the Carson-Tahoe Company to operate a service over this route imperiled the successful continuance of Richardson's unlawful operations and eight days after the filing of that application Richardson himself filed an application seeking a certificate covering the route over which he has operated unlawfully for at least three years.

We have consistently refused to issue certificates of public convenience and necessity where the applicant therefor is shown to have continuously operated in an illegal manner over the desired route, with full knowledge that his operations were illegal. On July 25, 1922, Richardson filed with us a formal complaint alleging that certain parties were transporting passengers to Sacramento from Placerville and points beyond on his route. That case was heard at Placerville on September 19, 1922, and decided by us on November 23, 1922, Decision No. 11268. The unlawful operations there complained of were defended on the ground that the defendants were conducting a rent car service only and as such were not subject to our jurisdiction. That case is of importance here because it shows conclusively guilty knowledge by Richardson of the illegality of his operations. In other words, Richardson, while seeking our affirmative relief from encroachment by others upon his operative rights, was at the same time himself in wilful, open and brazen defiance of the law and to a degree that by comparison makes insignificant the violations of the law complained of by him. In order to secure passenger traffic destined to points beyond Tallac the necessities of the situation required that the service be performed upon the arrival at Tallac of the Sacramento stage so that not only was he operating between fixed termini over a regular route but he was also operating on a regular schedule.

Protests were filed by the Southern Pacific Company and the Lake Tahoe Railway and Navigation Company to both applications, but at the close of the testimony given by the manager of the Carson-Tahoe company, the protest of the Southern Pacific to that application was withdrawn. This applicant proposes to leave Lakeside at 8.30 a.m. daily arriving at Tahoe Tavern, 36 miles distant, at 12.15 noon; on the return journey the stage will leave the Tavern at 1.45 p.m. and reach Lakeside at 5.30 p.m. The proposed service is somewhat in the nature of a sightseeing trip, the object being to enable those living

at Lakeside, Bijou, Al Tahoe and Tallac to go by auto from their camping places to Tahoe Tavern and return the same day.

The record contains a number of telegrams from certain resort owners on Lake Tahoe asking that the certificate be granted to Richardson; other resort owners have signed a petition in favor of the Carson-Tahoe Company. It is clear from the testimony submitted in support of the Richardson application that the service if available, would be used by many persons during the summer season, and that Richardson's present equipment is sufficient to enable him to handle all the traffic offered. It is equally clear, in view of his continued unlawful operations, that the certificate should not, under the circumstances, be granted to him. If we were to pursue this course, in the light of the facts of record, it would place us in the position of abetting and encouraging violations of the law.

The application of Richardson will be denied, and a certificate of public convenience and necessity to operate an automobile stage line for the transportation of passengers and baggage between Lakeside and Tahoe Tavern via Tallac, serving intermediate points, will be granted to the Carson-Tahoe Transportation Company.

#### ORDER.

A public hearing having been held in the above entitled applications, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity does not require the operation by A. L. Richardson, doing business under the fictitious name and style of Pierce Arrow Stage Line, of an automobile stage line as a common carrier of passengers between Tallac, Lakeside, Fallen Leaf and Tahoe City, California, and intermediate points; and

*It is hereby ordered*, that Application No. 8675 be and the same hereby is denied.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by W. D. Alexander, doing business under the fictitious name and style of Carson-Tahoe Transportation Company, of an automobile stage line as a common carrier of passengers between Lakeside and Homewood, California, serving as intermediate Bijou, Al Tahoe, Grove, Tallac, Emerald Bay, Meeks Bay, Pomin's, Moana Villa, and McKinney's, during the period of each year that the above named resorts are open; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

Applicant W. D. Alexander, doing business under the fictitious name and style of Carson-Tahoe Transportation Company, shall file

his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with those filed as Exhibits "A" and "B" attached to the application herein; and shall commence operation of the service herein authorized with the opening of the 1923 season.

The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

No vehicle may be operated by applicant Alexander unless such vehicle is owned by him or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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DECISION No. 11870.

IN THE MATTER OF THE APPLICATION OF GLENDALE AND MONTROSE RAILWAY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PROPERTY BETWEEN POINTS IN THE STATE OF CALIFORNIA.

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Application No. 8654.

Decided March 30, 1923.

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*O. T. Helpling, C. L. McFarland, and Harry W. Chase, for Applicant.*

BY THE COMMISSION.

OPINION.

The Glendale and Montrose Railway is a short line of railway, electrically operated, extending from Glendale through Verdugo, Woodlands and Montrose to La Crescenta, with a branch line extending from Glendale to Eagle Rock, all in Los Angeles County. The total mileage of the road is 8.29 miles.

On February seventh the applicant filed with us a petition asking for an increase in its proportional class and commodity rates, the class rates to be increased 10 per cent. The application was heard on March second, at which time the matter was submitted and is now ready for decision.

The application sets forth that 85 per cent of the gross revenues of the line are derived from its passenger traffic and 15 per cent from its freight traffic. The passenger revenue for 1921 and 1922 was \$24,945.23 and \$33,002.91, respectively; the freight earnings for these

years were \$2,757.66 and \$5,558.56. The strictly local traffic of the applicant is small, but 29 cars were handled in 1922, and consists only of rock and gravel. The interline freight shipments last year amounted to 433 carloads, of which 295 were lumber, 66 cement, 44 grapes and 13 automobiles. In 1921 and 1922 the earnings of the road were insufficient by \$14,000 and \$4,500, respectively, to pay operating expenses and fixed charges; and it is estimated that the revenue for this year will fall by \$10,000, to meet those items of expenditure. These figures include no allowance for interest accrued and past due on the mortgage and other indebtedness. No dividends have been paid on the capital stock or interest on bonded indebtedness of the line.

On purely local traffic, that is traffic not only originating at, but also destined to stations on the Glendale and Montrose Railway, no increases are proposed. The increases are proposed in the proportional class and commodity rates, that is, on traffic originating at or destined beyond Glendale. Such traffic actually moves, however, on through rates published in connection with the Pacific Electric or Salt Lake roads and since no increases are proposed in the through rates themselves, an increase in the proportional rates will not increase the freight charges of shippers or consignees. As stated by the traffic manager of the applicant, the proportional rates are being advanced, "with the idea of receiving larger divisions of the through rates without increasing the through rates from the connecting lines." The increases asked for are to meet increases in wages, increased cost of materials, supplies, equipment and power, which mounting costs, because of competitive conditions, have not heretofore been reflected in freight rate increases. The wages for 1922 exceeded wages of the same number and classes of employees for 1917 by \$6,900 or more than 56 per cent; the cost of power in 1922 was \$1,400 more than in 1920, or an increase of 29 per cent. It will be necessary to purchase this year an electric locomotive at a cost of more than \$25,000 and to expend about \$10,000 for street paving and replacement of road bed and track. Furthermore, since October 1, 1921, the applicant, which owns no equipment, has been obliged to pay per diem for car hire amounting to approximately \$80 per month, and expenditure which it was not required to make prior to the date named.

It is understood that in granting the increases sought by the applicant that the traffic involved is now moving, and will continue to move on through rates, and that no increase in rates to the public will follow as a result of our action in this matter. In view of the financial showing of the applicant as to its need for additional revenues and in view of the further fact that no protest was made on behalf of any of

the interested lines, the application to increase its proportional class and commodity rates will be granted.

#### ORDER.

The Glendale and Montrose Railway having applied to this Commission for permission to increase its local class and commodity freight rates between points located on its rails, a hearing having been had, the Commission being fully apprised in the premises, and basing its order on the opinion which precedes this order;

*It is hereby ordered*, that the Glendale and Montrose Railway be and it is hereby authorized to modify its tariffs for the transportation of freight in accordance with that part of the application marked Exhibit "C," attached to and made a part of the application.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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#### DECISION No. 11871.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF COMMON CAPITAL STOCK.

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Application No. 8752.

Decided March 30, 1923.

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*Glenn D. Smith*, for Applicant.

BY THE COMMISSION.

#### OPINION.

In this application Ontario Power Company asks permission to issue at par \$120,000 of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in property prior to January 1, 1923, and not capitalized.

A public hearing was held before Examiner Williams in Los Angeles on March 10, 1923. A statement relating to the company's depreciation reserve credits and charges has been filed as requested at the hearing and the matter is now ready for decision.

Ontario Power Company was organized on or about October 29, 1901, and has an authorized capital stock of \$1,500,000, divided into \$900,000 of common and \$600,000 of 7 per cent preferred stock. As of December 31, 1922, the company reports \$380,000 of common and \$330,150 of preferred stock outstanding. The preferred stock has preference both as to dividends and assets over the common stock and bear cumulative dividends at the rate of 7 per cent per annum. The company has regularly paid the 7 per cent dividend on its preferred stock from the time stock was issued. On the common stock, dividends were paid during 1918 at the rate of 4½ per cent, during 1920 at the rate of 6½ per cent

and during 1921 and 1922 at the rate of 8 per cent per annum. No dividends were paid during 1919, while in 1922 an extra dividend of 4 per cent was paid.

The company reports its assets and liabilities as of December 31, 1922, as follows:

<i>Assets.</i>	
Fixed capital:	
Installed prior to January 1, 1913.....	\$536,384 52
Installed since December 31, 1912.....	762,285 81
Total fixed capital.....	\$1,298,670 33
Current assets:	
Cash and deposits.....	\$5,744 61
Due from consumers and agents.....	28,210 14
Miscellaneous accounts receivable.....	12,184 61
Investments.....	10,074 25
Materials and supplies.....	20,269 94
Sinking fund.....	3,400 86
Special funds.....	4,864 34
Total current assets.....	84,748 75
Other assets:	
Prepaid insurance.....	300 00
Unamortized discount.....	123 75
Suspense.....	276 21
Total other assets.....	699 96
Total assets.....	\$1,384,119 04
<i>Liabilities.</i>	
Capital stock.....	\$710,150 00
Bonds.....	384,000 00
Current liabilities:	
Notes payable.....	\$6,100 00
Audited vouchers.....	6,912 52
Consumers' deposits.....	186 94
Miscellaneous accounts payable.....	2,142 78
Interest and taxes accrued.....	10,837 11
Dividends declared.....	5,074 96
Total current liabilities.....	31,254 31
Surplus and reserves:	
Reserve for accrued depreciation.....	92,427 54
Unamortized premium on debt.....	2,195 73
Casualty and insurance reserves.....	4,864 34
Other reserves.....	540 92
Corporate surplus unappropriated.....	158,686 20
Total surplus and reserves.....	258,714 73
Total liabilities.....	\$1,384,119 04

Applicant since January 1, 1913, has accumulated a reserve for accrued depreciation of \$92,427.54. Prior to that time, applicant reduced its investment in fixed capital by the amount of depreciation

allowance included in operating expenses. For the purpose of this proceeding, applicant's appropriation of earnings to cover depreciation has been sufficient. As of December 31, 1922, applicant reports an accumulated unappropriated surplus of \$158,686.20. This surplus is invested in applicant's fixed capital or in its current assets. Applicant asks that it be permitted to issue at par \$120,000 of its common stock to reimburse its treasury on account of surplus earnings invested in property. After the reimbursement of its treasury, applicant intends to distribute the stock, according to law, as a stock dividend. No change will result in applicant's property accounts because of the issue of the stock, but \$120,000 will be transferred from its surplus to its capital stock account. The granting of the application will not result in the capitalization of amounts that should have been credited to the reserve for accrued depreciation.

#### ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue \$120,000 of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant; therefore,

*It is hereby ordered,* that Ontario Power Company be and it is hereby authorized to issue at not less than par \$120,000 of its common capital stock for the purpose of reimbursing its treasury, on account of surplus earnings invested in property prior to December 31, 1922.

The authority herein granted is subject to the following conditions:

(1) Applicant shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

(2) The authority herein granted will become effective upon the date hereof, and will expire on September 15, 1923.

Dated at San Francisco, California, this thirtieth day of March, 1923.

## DECISION No. 11872.

IN THE MATTER OF THE APPLICATION OF THE DALIDIO, TOGNINI AND GHEZZI TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE AND TRANSFER OF ITS TELEPHONE SYSTEM, LOCATED IN THE TOWN OF CAYUCOS AND ADJACENT TERRITORY TO J. R. FORT, AND AUTHORIZING J. R. FORT TO PURCHASE AND ACQUIRE THE SAME.

Application No. 8519.

Decided March 30, 1923.

*F. Dalidio, A. B. Tognini and G. Ghezzi, for Dalidio, Tognini and Ghezzi Telephone Company.*

*J. R. Fort, in propria persona.*

BY THE COMMISSION.

## OPINION.

A public hearing upon the above application was held by Examiner Satterwhite at San Luis Obispo, February 14, 1923.

Dalidio, Tognini and Ghezzi Telephone Company is an unincorporated company operating a telephone system in the town of Cayucos and adjacent territory. This company was organized in the year 1917 to acquire and operate under one ownership, a telephone system owned by Jos. A. Righetti and Florino Dalidio, a copartnership, and a system owned by Tognini and Ghezzi, a copartnership, both operating in the town of Cayucos and adjacent territory.

Petitioner J. R. Fort is engaged in business as an electrical contractor in Cambria, San Luis Obispo County, a town a few miles distant from Cayucos.

In its Decision No. 11397, the Railroad Commission authorized Mrs. G. Guerra to sell and J. R. Fort to purchase the Cambria Telephone Company which operates a telephone system in the town of Cambria and adjacent territory. It is the purpose of petitioner Fort to consolidate the managements of these telephone systems in Cayucos and Cambria, and, by economics in operation and maintenance made possible by consolidated ownership and by elimination of certain duplication of lines, to generally improve the service. This Commission, in its Decision No. 8548, ordered relief from overloading of lines and an improvement of the service as given by the then owners of the Dalidio, Tognini and Ghezzi system. These improvements petitioner J. R. Fort agrees to make.

The proposed purchase price, \$1,000, from the testimony, appears reasonable.

## ORDER.

Application having been made to the Railroad Commission for an order authorizing Dalidio, Tognini and Ghezzi Telephone Company to sell and transfer its telephone system, located in the town of Cayucos



and adjacent territory to J. R. Fort, and authorizing J. R. Fort to purchase and acquire the same, a public hearing having been held and the matter having been submitted, and the Railroad Commission being of the opinion that the interests of the public will be subserved thereby;

*It is hereby ordered,* that Dalidio, Tognini and Ghezzi Telephone Company, an unincorporated company, be and it hereby is authorized to transfer to J. R. Fort, the telephone property owned and operated by the former in the town of Cayucos and adjacent territory for the consideration of \$1,000; and as soon as the purchaser has taken possession and is operating the property, the selling company is hereby authorized to discontinue service by means of said property, which is described as follows:

200 4"x6"x22' poles.  
25 miles No. 14 copper wire lines.  
200 miles No. 14 iron wire.  
105 telephones in use.  
32 telephones not in use.  
3 switchboards.  
pickets nailed on fences.  
knobs and insulators.

The authority herein contained is granted upon the following conditions:

1. Any transfer hereunder made shall be within sixty (60) days from the date hereof and within ten (10) days after execution and delivery of an instrument of transfer, purchaser shall file with the Commission a certified copy thereof.

2. Nothing herein contained shall be construed as a finding of value of said property to be transferred, for any purpose other than as set forth in the application herein.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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DECISION No. 11873.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER AUTHORIZING SAID COMPANY TO MAKE EFFECTIVE MESSENGER CHARGES FOR DELIVERING TELEGRAMS AND TELEPHONE MESSAGES.

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Application No. 8566.

Decided March 30, 1923.

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Leo H. Susman, for Applicant.

BY THE COMMISSION.

OPINION.

California Telephone and Light Company, applicant in this proceeding, is a corporation operating, among other things, a telephone and telegraph system in portions of Sonoma, Napa, Lake, and Mendocino counties, in the State of California. The Commission is asked to

make its order authorizing applicant to establish and make effective messenger charges for delivering telegrams. Applicant operates telephone exchanges in the following municipalities and communities, to wit: Guerneville, Healdsburg, Calistoga, Potter Valley, Sonoma, Middletown and Lakeport.

This proceeding was instituted to clear up the question of the legal right of California Telephone and Light Company to collect messenger charges for the delivery of a prepaid telegram from a station of The Pacific Telephone and Telegraph Company located in the Ferry Building, San Francisco, to a party in Calistoga, Napa County, California. This telegram was received by California Telephone and Light Company at its Calistoga exchange and it, finding that it would be necessary to deliver the message by messenger, so informed the sending station, but the sender of the message could not be found. California Telephone and Light Company thereupon made delivery by messenger, asking addressee for the amount of the messenger charges, which charges addressee refused to pay.

California Telephone and Light Company then made application for authority to make and collect from addressees, charges for personally delivered telegrams.

A public hearing was held in Santa Rosa on February 1, 1923, before Examiner Satterwhite. It was shown at this hearing that applicant does not transmit over its lines any messages by telegraph and that it employs no telegraph operators or messengers. Applicant receives and will continue to receive messages which are intended for delivery to parties residing in the general vicinity of its exchanges, and has in the past made, and will in the future make, free delivery by telephone of such messages where possible. Where such free delivery could not be made, applicant has, in the past, made it a practice to transcribe such messages and to engage the services of any person who might be available for that purpose and to pay such person such reasonable sum as he might exact for the personal delivery of such messages and to collect such sums from the addressees. Such charges have varied from ten (10) cents to several dollars, according to the distance from the exchange and the method of delivery. In many cases, the cost of delivery of such telegrams has exceeded the amount of the tariff received by applicant for the transmission of the telegram over its lines.

Applicant, therefore, asks for authority to make a uniform charge for personal delivery by messenger of telegrams received at its exchanges in Guerneville, Healdsburg, Calistoga, Potter Valley, Sonoma, Middletown and Lakeport, to wit:

1. For delivery by messenger to any address within a distance not exceeding one (1) mile from any of its central office exchanges, as

above named, the actual cost of delivery, not exceeding twenty-five (25) cents.

2. For delivery by messenger to any address within a distance exceeding one (1) mile from any of its central office exchanges, as above named, the actual cost of delivery.

It is our opinion that the cost of the personal delivery of such telegrams should be borne by the addressees.

#### ORDER.

California Telephone and Light Company having applied to the Railroad Commission for an order authorizing it to establish and make effective certain messenger charges, a public hearing having been held and the case being now ready for decision;

*It is hereby ordered* that California Telephone and Light Company be and it hereby is authorized to file with this Commission within thirty (30) days from the date of this order, and to make effective, after twenty (20) days from the date of filing thereof, the following charges for personal delivery of telegrams, to wit:

1. For delivery by messenger to any address within a distance not exceeding one (1) mile from any of its central office exchanges, hereinafter designated, the actual cost of delivery, not exceeding twenty-five (25¢) cents.

2. For delivery by messenger to any address within a distance exceeding one (1) mile from any of its central office exchanges, hereinafter designated, the actual cost of delivery.

The above rates shall be made effective by California Telephone and Light Company at its central office exchanges at Guerneville, Healdsburg, Calistoga, Potter Valley, Sonoma, Middletown, and Lakeport.

Dated at San Francisco, California, this thirtieth day of March, 1923.

## DECISION No. 11874.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ACQUIRE, UPON THE TERMS AND CONDITIONS IN THIS APPLICATION SPECIFIED, THE SHARES OF THE CAPITAL STOCK OF THE CALIFORNIA TELEPHONE AND LIGHT COMPANY.

Application No. 8822.

Decided March 30, 1923.

C. P. Cutten, for Pacific Gas and Electric Company.  
Leo H. Susman, for California Telephone and Light Company.

MARTIN, Commissioner.

## OPINION.

Pacific Gas and Electric Company, in this application, asks permission to acquire the outstanding stock of the California Telephone and Light Company and to issue preferred and common stock, in the amount and on the basis hereinafter mentioned, in exchange for such stock.

The record shows that the California Telephone and Light Company was organized on or about November 23, 1911, and at present is engaged in operating an electric distributing and telephone system in the counties of Sonoma, Lake and Mendocino, and that it operates in territory contiguous to that served by the Pacific Gas and Electric Company. The testimony shows that the California Telephone and Light Company during January, 1923, has 2347 telephone subscribers and 6138 electric consumers. Its reports on file with the Railroad Commission show revenues and expenses for the past three years as follows:

Gross revenues:	1920	1921	1922
Electric -----	\$176,238 33	\$214,181 09	\$261,376 48
Telephone -----	76,381 57	80,486 76	88,266 90
Other -----	1,240 87	891 52	1,354 14
Total -----	\$253,860 77	295,559 37	350,997 52
Operating expenses -----	173,447 84	212,645 47	260,633 85
Balance -----	\$80,412 93	\$82,913 90	\$90,363 67
Interest -----	\$33,612 32	\$33,932 84	\$40,701 50
Amortization -----	1,633 38	1,635 20	2,172 88
Other deductions -----	2,877 80	3,179 92	2,347 61
Total deductions -----	\$38,123 50	\$38,797 96	\$45,221 99
Surplus available for dividends -----	42,289 43	44,115 94	45,141 68

California Telephone and Light Company has an authorized capital stock of \$10,000,000, divided into \$4,000,000 of 6 per cent cumulative preferred and \$6,000,000 of common. Of the preferred, \$550,031.91, and of the common, \$764,850 is outstanding. The company has an outstanding bonded debt of \$747,900. The total stocks and bonds outstanding amount to \$2,062,781.91.

A. F. Hockenbeamer, a director of the California Telephone and Light Company, testified that the historical cost of the properties, using the Commission's engineers' estimate as of June 30, 1916, as a base and adding thereto the cost of additions and betterments since such date, amounts to approximately \$1,417,600.

Pacific Gas and Electric Company asks permission to issue \$550,031.91 of its 6 per cent first preferred stock in exchange for \$550,031.91 of 6 per cent preferred stock of California Telephone and Light Company and to issue \$254,950 of its common stock in exchange for \$764,850 of common stock of the California Telephone and Light Company. The preferred stock of the two companies will be exchanged on a share for share basis, while one share of Pacific Gas and Electric stock will be issued for each three shares of common stock of the California Telephone and Light Company.

It is of record that on March 28, 1923, 95.56 per cent of the outstanding stock of the California Telephone and Light Company has been deposited with the Mercantile Trust Company of California in exchange for stock of the Pacific Gas and Electric Company. If all of the stock of the California Telephone and Light Company is exchanged on the basis indicated, the capitalization of its properties will be reduced \$509,900. This reduction is effected through the exchange of three shares of common stock of the California Telephone and Light Company for one share of Pacific Gas and Electric Company stock.

The Pacific Gas and Electric Company, because of its more complete organization and greater resources, should be able to operate and maintain the properties more efficiently than California Telephone and Light Company and develop additional business throughout the territory being served by the properties. The transfer of the control of these properties of the Pacific Gas and Electric Company appears to be in the public interest.

I herewith submit the following form of order:

#### ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue stock and acquire the outstanding stock of the California Telephone and Light Company, a public hearing having been held and the Commission being of the opinion that the granting of this application is in the public interest and that the application should be granted as herein provided; therefore

*It is hereby ordered*, that Pacific Gas and Electric Company be and it is hereby authorized to issue for the purpose of acquiring the outstanding stock of the California Telephone and Light Company not exceeding \$550,031.91 of 6 per cent first preferred and \$254,950 of common stock, such stock to be issued in exchange for preferred and

common stock of the California Telephone and Light Company pursuant to the terms and conditions appearing in Exhibit No. 3 filed in this proceeding.

*It is hereby further ordered*, that Pacific Gas and Electric Company be and it is hereby authorized to acquire and hold \$550,031.91 of 6 per cent preferred stock and \$764,850 of common stock of the California Telephone and Light Company, such stock to be acquired through the issue of the preferred and common stock herein authorized.

The authority herein granted is subject to further conditions as follows:

(1) Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(2) The authority herein granted will become effective on the date hereof and will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of March, 1923.

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DECISION No. 11876.

IN THE MATTER OF THE APPLICATION OF BOULEVARD EXPRESS, INCORPORATED, A CORPORATION, TO ISSUE STOCK IN PAYMENT FOR PROPERTIES AND ASSETS OF BOULEVARD EXPRESS A COPARTNERSHIP.

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Application No. 8430.

Decided March 31, 1923.

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Warren E. Libby, for Applicant.

Henry J. Bischoff *in propria persona*, and for Coast Truck Line, Protestants.

By THE COMMISSION.

OPINION.

In this application Boulevard Express, Incorporated, a corporation, asks permission to issue 632 shares of its capital stock, of the aggregate par value of \$63,200, for the purpose of acquiring, subject to outstanding liabilities, the properties, equipment and assets of Boulevard Express, a copartnership.

Public hearings were held before Examiner Satterwhite in Los Angeles on the seventeenth and eighteenth days of January, 1923. The application was submitted subject to the filing of briefs by counsel. The Commission has received protestant's brief and has been advised

that applicant has decided to waive the filing of its brief. The matter is now ready for decision.

The articles of incorporation of Boulevard Express, Incorporated, show that it was organized on or about July 27, 1922, with an authorized capital stock of \$100,000 divided into 1000 shares of the par value of \$100 each, all shares being common. It appears that the corporation was formed for the purpose of receiving and operating the business and properties of Boulevard Express, a copartnership operating auto trucks for the transportation of freight between Los Angeles and San Diego. Applicant acquired the operative right to conduct this business pursuant to authority granted by the Commission on December 23, 1922, by Decision No. 11394 in Application No. 8156. The present application involves the issue of stock in payment for the properties of the copartnership and the assumption of indebtedness.

A description of the properties to be acquired by applicant is on file in this proceeding. The company asks the Commission to make its order authorizing the issue of stock against property values based upon an inventory which it caused to be prepared and which it filed in this proceeding as its Exhibit No. 1. The replacement value of the properties is reported by applicant as follows:

Trucks, trailers and automobiles.....	\$47,571 30
Extra equipment for rolling stock.....	2,208 40
Shop and shop tools.....	4,064 18
Stores and supplies.....	5,316 06
Terminal equipment .....	2,374 79
Office furniture and fixtures.....	2,793 60
Stationery and office supplies.....	839 77
<b>Total.....</b>	<b>\$65,168 10</b>

The rolling stock includes thirteen trucks, two trailers and two automobiles, together with additions and improvements, and is reported to have been purchased originally by members of the copartnership for \$44,762.63. The amount of \$47,571.30 represents, so testimony herein shows, the cost to replace such properties based on present day prices and has no bearing on the original cost. Counsel for applicant urges the Commission to use the replacement value in arriving at the amount of stock which it will authorize to be issued, for the reason that applicant is taking over a going concern which is entitled to going concern values. He also urges the Commission to authorize the issue of stock to acquire leases of terminal properties in Los Angeles and San Diego, which leases are alleged to possess a value of \$20,000. It appears that the lease of the Los Angeles properties calls for a monthly rental of \$200 and runs for a period of slightly less than nine years. The other lease, for the San Diego terminal, has an unexpired term of about eight years and provides for a monthly rental of \$225. Based upon rents offered for a portion of the properties covered by these leases, and based

upon opinions of realtors and others requested to appraise these leasehold values, the copartners have arrived at the amount now urged.

Adding the estimated leasehold values to the estimated replacement value of the physical properties results in a total figure of \$85,168.10. However, the record shows on January 1, 1923, that there was outstanding against these properties, indebtedness of \$33,054.28, the payment of which applicant has agreed to assume. This indebtedness includes contracts payable for the purchase of trucks of \$13,706.21, notes payable of \$7,100 and accounts payable of \$12,248.07. Deducting the total amount of indebtedness from \$85,168.10 leaves a balance of \$52,113.82, against which applicant claims it should be permitted to issue \$62,200 of stock. It asks permission to issue, in addition, \$1,000 of stock to pay attorney's fees, incorporation expenses and the cost of installing its accounting system.

As of December 31, 1922, the copartnership reports its assets and liabilities as follows:

## ASSETS.

Plant and equipment.....	\$51,973 72
Securities of other corporations.....	590 00
Cash .....	133 34
Notes receivable .....	2,926 93
Accounts receivable .....	6,234 85
Materials and supplies.....	5,355 87
Prepayments .....	1,570 00
<b>Total assets .....</b>	<b>\$68,784 71</b>

## LIABILITIES.

Contracts payable .....	\$13,706 21
Notes payable .....	7,100 00
Accounts payable .....	12,248 07
Other credit accounts.....	994 35
Reserve for accrued depreciation.....	18,725 91
Proprietors' account .....	9,511 07
Surplus .....	6,499 10
<b>Total liabilities .....</b>	<b>\$68,784 71</b>

We do not believe that applicant has made a showing which warrants the Commission to authorize the issue of stock against leaseholds. Moreover, under the uniform classification of accounts for Class "A" automotive transportation companies, the rent paid for the leased premises is an operating expense.

For the purpose of this proceeding, we will consider the investment in the properties sought to be acquired by applicant at \$68,784.71. Deducting the current liabilities (\$33,054.28), the payment of which will be assumed by applicant, leaves \$35,730.43. The order herein will permit applicant to issue \$35,800 of stock to acquire the equity in the properties and \$1,000 to pay attorney's fees and other expenses mentioned in the petition.



**ORDER.**

Boulevard Express, Incorporated, having applied to the Railroad Commission for permission to issue \$63,200 of its capital stock and to assume the payment of indebtedness, public hearings having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$36,800 of stock and the assumption of indebtedness is reasonably required by applicant;

*It is hereby ordered*, that Boulevard Express, Incorporated, be and it is hereby authorized to assume the payment of not exceeding \$33,054.28 of indebtedness referred to herein, and to issue \$35,800 of its capital stock for the purpose of acquiring the properties of Boulevard Express, a copartnership, and to issue \$1,000 of stock, at not less than par, to pay attorney's fees, incorporation expenses and the cost of installing its accounting systems.

*It is hereby further ordered*, that the application, in so far as it relates to the issue of \$26,400 of stock, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted shall not be interpreted as a finding of value of the properties for rate fixing or for any purposes other than the issue of stock herein authorized.

(2) Applicant shall keep such record of the issue, sale or delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act and will expire on September 30, 1923.

Dated at San Francisco, California, this thirty-first day of March, 1923.

## DECISION No. 11878.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE AND SELL TWO THOUSAND FIVE HUNDRED SHARES OF ITS FIRST PREFERRED CAPITAL STOCK AT NOT LESS THAN EIGHTY-SIX PER CENT OF THE PAR VALUE THEREOF.

Application No. 8759.

Decided April 2, 1923.

Leo H. Susman, for Applicant.

BRUNDIGE, Commissioner.

## OPINION.

In this application the Railroad Commission is asked to make an order authorizing Coast Counties Gas and Electric Company to issue and sell 2500 shares of its first preferred 6 per cent stock, of the aggregate par value of \$250,000, for the purpose of reimbursing its treasury on account of surplus earnings invested in additions and betterments. The company proposes to sell its stock at \$86 per share, but asks permission to use, of the proceeds, an amount not exceeding \$5 per share to pay selling expenses.

Coast Counties Gas and Electric Company was organized on or about March 20, 1912, and is engaged in the business of supplying electric energy and gas in and about Santa Cruz, Watsonville, Hollister and Gilroy. On December 31, 1922, the company had outstanding in the hands of the public \$1,000,000 of common stock, \$1,000,000 of original preferred stock, \$386,000 of first preferred stock and \$1,639,000 of bonds.

The company reports revenues and expenses for the past three years as follows:

Item	1920	1921	1922
Operating revenue -----	\$633,423 43	\$743,548 75	\$825,516 06
Operating expenses including taxes and depreciation -----	466,045 55	526,434 92	611,433 59
Net operating revenue -----	\$167,377 88	\$217,113 83	\$214,082 47
Nonoperating revenue -----	3,577 65	4,720 84	16,288 09
Gross corporate income -----	\$170,955 53	\$221,834 67	\$230,370 56
Deductions:			
Interest on funded debt -----	81,560 00	81,560 00	81,560 00
Other interest -----	615 05	1,216 45	1,434 64
Uncollectible bills -----	4,840 38	6,207 82	4,169 89
Rent -----	3,450 70	6,755 96	3,490 68
Nonoperating expenses -----	311 95	336 91	727 15
Amortization of debt discount -----	1,179 48	1,179 48	1,179 48
Total deductions -----	\$91,957 56	\$97,256 62	\$92,561 84
Leaving balance for dividends and surplus -----	\$78,997 97	\$124,578 05	\$137,808 72

During 1920 the company has paid in dividends \$9,832.14; during 1921, \$31,078.49 and during 1922, the sum of \$47,693.41. As of December 31, 1922, applicant reports an accumulated surplus of \$246,704.17 and a reserve for accrued depreciation of \$310,133.12.

The company reports that prior to December 31, 1921, it expended the sum of \$307,310.70 for extensions, additions and betterments to its plants and properties, for which it has not been reimbursed with proceeds from the sale of stock or bonds. Such expenditures have heretofore been reported to the Commission in detail in Application No. 7848. Since December 31, 1922, and prior to January 1, 1923, it is reported that \$281,645.78 was expended from surplus earnings for capital purposes. These expenditures are segregated by applicant as follows:

*Electric Department:*

Landed capital -----	\$4,743 95	
Production capital -----	13,995 93	
Transmission capital -----	14,450 89	
Distribution capital -----	113,174 49	
General capital -----	36,047 97	
Total electric -----		\$182,413 23

*Gas Department:*

Landed capital -----	\$7,591 70	
Production capital -----	48,705 62	
Transmission capital -----	349 60	
Distribution capital -----	35,004 18	
General capital -----	7,581 45	
Total gas -----		99,232 55
Total -----		\$281,645 78

It is to finance permanently a portion of the cost of these expenditures that the present request is made to issue \$250,000 of stock.

I herewith submit the following form of order:

**ORDER.**

Coast Counties Gas and Electric Company having applied to the Railroad Commission for permission to issue \$250,000 of its first preferred stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in this order, and that the expenditures for such purposes are not in whole, or in part, reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Coast Counties Gas and Electric Company be and it is hereby authorized to issue 2500 shares of its first preferred stock of the aggregate par value of \$250,000.

The authority herein granted is subject to the following conditions:

1. Applicant shall sell the stock herein authorized at not less than \$86 per share and may use of the proceeds, if necessary, an amount not exceeding \$5 per share to pay commissions and expenses incident to the sale of the stock. The remaining proceeds shall be used to reimburse applicant's treasury on account of earnings expended for additions and betterments, and through such reimbursement, finance permanently in part, the cost of additions and betterments to which reference is made in the preceding opinion and in this application.

2. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue stock will become effective upon the date of this order and will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of April, 1923.

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DECISION No. 11879.

IN THE MATTER OF THE APPLICATION OF PLACENTIA DOMESTIC WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF STOCK AND FOR THE PURCHASE OF THE PLANT, WORKS AND PROPERTY OF THE PLACENTIA DOMESTIC WATER SYSTEM HERETOFORE OPERATED BY A. S. BRADFORD, TRUSTEE.

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Application No. 8789.

Decided April 2, 1923.

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*E. W. Camp*, for Applicants.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Placentia Domestic Water Company to issue \$30,000 of its capital stock to acquire the water system and properties located in the town of Placentia in Orange County.

A public hearing was held before Examiner Williams in Los Angeles on March 23, 1923.

The application shows that Placentia Domestic Water Company was organized on or about January 6, 1923, with an authorized capital stock of \$50,000, divided into 5000 shares of the par value of \$10 each.

It appears that the corporation was formed for the purpose of acquiring the water system at Placentia, which is at present owned by A. S. Bradford, W. H. Brewer, E. W. Camp and J. R. Hitchcock and which is operated by A. S. Bradford as trustee for the owners. It is reported that this system, which was started in 1910 to facilitate the sale of real estate, serves about 300 consumers and that during 1920 the operating revenues were \$4,493.41, during 1921 \$7,882.65 and during 1922 \$8,079.90. After paying operating and other expenses the owners report a loss in 1920 of \$30.76, and a profit in 1921 of \$3,118.80 and in 1922 of \$3,455.15.

The properties comprising this water system are reported to include two small lots within the townsite upon which are located two wells, the source of supply, three tanks, one of galvanized iron and two of steel, and an aggregate capacity of 70,000 gallons, two pumps, a motor of 25-horsepower, approximately 29,960 feet of 2, 3, 4 and 6-inch pipe, and 306 meters. The Commission heretofore in Decision No. 8594, dated January 26, 1921, in adjusting rates, used as a rate base for these properties, the sum of \$27,743. It appears that additions and betterments were made during 1921 of \$1,929.15 and during 1922 of \$1,247.48, which amounts, added to the rate base, produce a total figure for the properties of \$30,919.63.

The present owners have concluded that these properties can be operated more economically and efficiently by a corporation, and for that reason have caused the organization of applicant, Placentia Domestic Water Company, which proposes to acquire the system, free and clear of all liens and encumbrances, for \$30,000 in stock. It appears that no change in the control or management of the business will result from the proposed transfer of properties, as the stock will be held in equal amounts by the present owners, and that the public will be given service equal or superior to that now given.

#### ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that A. S. Bradford, as trustee, and A. S. Bradford, W. H. Brewer, E. W. Camp and J. R. Hitchcock be and they are hereby authorized to transfer and assign the water properties and business located at Placentia and referred to in the foregoing opinion and in this application to Placentia Domestic Water Company for \$30,000 in stock.

*It is hereby further ordered*, that Placentia Domestic Water Company be and it is hereby authorized to issue and deliver \$30,000 of its capital stock in full payment for such properties.

The authority herein granted is subject to further conditions as follows:

1. The price at which the properties are herein authorized to be transferred shall not be binding upon the Railroad Commission, or other court or public body, as a measure of value of such properties for any purpose other than the transfer herein authorized.

2. Placentia Domestic Water Company shall advise the Commission of the exact date upon which it acquires ownership of the properties and it shall file with the Commission a certified copy of the deed by which it acquires title to the properties, as authorized in this order, within thirty days after execution of such deed.

3. Placentia Domestic Water Company shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file within thirty days after such issue, a verified statement, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to transfer properties and to issue stock will become effective upon the date hereof and will expire on July 15, 1923.

Dated at San Francisco, California, this second day of April, 1923.

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DECISION No. 11880.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE OF EQUIPMENT TRUST CERTIFICATES FOR THE PURPOSE OF ACQUIRING FIFTEEN COACHES.

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Application No. 8445.

Decided April 2, 1923.

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BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission on December 29, 1922, by Decision No. 11421 authorized San Francisco-Oakland Terminal Railways to issue and sell at not less than 99 per cent of face value plus accrued dividends, \$175,000 of 10-year 6 per cent serial equipment trust certificates for the purpose of paying in part the cost of fifteen new cars or to assume the obligations under an equipment trust agreement and a lease agreement looking toward the payment of \$175,000 of such certificates. The

authority granted by the Commission's order does not become effective until the Commission by supplemental order has authorized the execution of an equipment trust agreement and a lease agreement.

On March 19, 1923, applicant filed in the above entitled matter copies of a proposed equipment trust agreement and a lease agreement. It asks the Commission to make an order authorizing the execution of these instruments. The Commission has considered the agreements and finds them to be in satisfactory form. The request of applicant should be granted.

*It is hereby ordered*, that San Francisco-Oakland Terminal Railways be and it is hereby authorized to execute an equipment trust agreement and a lease agreement in substantially the same form as the equipment trust agreement and the lease agreement filed in this proceeding on March 19, 1923, and marked "Exhibit 1" and "Exhibit 2" respectively, provided that the authority herein granted to execute an equipment trust agreement and a lease agreement is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of such equipment trust agreement and lease agreement as to such other legal requirements to which said equipment trust agreement and lease agreement may be subject;

*It is hereby further ordered*, that the order in Decision No. 11421, dated December 20, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this second day of April, 1923.

## DECISION No. 11883.

IN THE MATTER OF THE APPLICATION OF M. E. FARRISS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE TRUCK LINE FOR THE CARRYING OF FREIGHT BETWEEN SACRAMENTO ON THE ONE HAND AND NEVADA CITY AND INTERMEDIATE POINTS BETWEEN AUBURN AND NEVADA CITY ON THE OTHER, BUT NOT INCLUDING AUBURN.

Application No. 8397.

Decided April 2, 1923.

*Harry A. Encell and James A. Miller*, for Applicant.

*Jesse H. Steinhart*, for Nevada County Narrow Gauge Railroad Company, Protestant.

*C. E. Spear*, for Southern Pacific Company, Protestant.

*E. P. Roleson and F. E. Crandall*, for American Railway Express Company, Protestant.

*Nilon and Nilon*, by *Frank Nilon*, for Empire Mines and Investment Company, and North Star Mines Company, Protestants.

*F. T. Nilon*, for City of Nevada, Protestant.

*Geo. H. Calanan*, for Half Century Club of Nevada City and Grass Valley, Protestant.

*C. R. Spickard*, for McFall and Spickard, copartners doing business under the fictitious name of the Sacramento-Auburn-Nevada City Stage Company, Protestants.

*George J. Bradley*, for Merchants' and Manufacturers' Traffic Association of Sacramento, Protestants and as *amicus curiae*.

*Searls and Searls*, by *Carroll Searls*, for the Nevada County Farm Bureau, Nevada Irrigation District, Idaho-Maryland Mines Company, Tonopah Mining Company of Nevada, Allegheny Mining Company, Ante Up Mining Company, Original Sixteen-to-One Mine, Incorporated, Rainbow Mine, Brunswick Consolidated Gold Mining Company, and Rector Brothers, Protestants.

*W. E. Wright*, District Attorney for County of Nevada, Protestant.

*M. J. Brock*, for City of Grass Valley, Protestant.

*E. J. N. Ott*, for Nevada City Chamber of Commerce, Protestant.

*J. E. Taylor and W. E. Wright*, for Nevada County Development Association, Protestant.

*Jas. C. Tyrrell*, for Grass Valley Chamber of Commerce and Quartz Parlor No. 58, N. S. G. W., Protestants.

BY THE COMMISSION.

## OPINION.

This case was heard before Examiner Eddy at Grass Valley on March 7th. Briefs have since been filed and the matter is now ready for decision.

The applicant seeks a certificate of public convenience and necessity to operate an automobile freight service between Sacramento and Nevada City, a distance of 65.4 miles, serving Grass Valley and other intermediate points between Auburn and Nevada City but not including Auburn. Under the amended schedule submitted at the hearing applicant's truck will leave Nevada City daily except Sunday at 6 a.m., arriving at Sacramento at 9.30 a.m.; on the return trip the truck will leave Sacramento at 11 a.m., reaching Nevada City at 4 p.m. The application sets forth that there will be used in the service a 5-ton Pierce-Arrow truck and one 2-ton special White truck. The Pierce-Arrow is presumably owned by M. E. Farriss and the White by



C. H. Barker. M. E. Farriss is the wife of B. E. Farriss. The latter appeared at the hearing as "agent for M. E. Farriss," is to act as "superintendent of transportation" of the line, and throughout this report will be referred to as the "applicant."

Twenty-five witnesses, of whom eleven live on or near the highway between Auburn and Grass Valley, testified for the applicant. Eight of these eleven witnesses are engaged in farming. The three other witnesses have, within the past four months, engaged in business on the highway; two of them conduct a garage and grocery store at a point about two miles north of Auburn and the other a general merchandise store five and one-half miles north of Auburn.

The territory between Auburn and Grass Valley is said to be sparsely settled and devoted principally to stock raising with some fruit growing. One of the witnesses, who lives about two and one-half miles north of Auburn, brings to that point each week five cases of eggs for shipment by express. Another farmer ships a case of eggs a week from Auburn, trading the balance of his product at that place for groceries. Some cream is produced in the territory between Auburn and Grass Valley and one witness ships out ten gallons a week to San Francisco. Three witnesses were interested in shipping wood from their ranches to Sacramento by truck, but no specific rate on this commodity is named in applicant's rate sheet.

Two witnesses from Nevada City testified in behalf of the applicant, a grocer and hotel manager. The grocer ships in about 44,000 pounds a month and his freight bills last year amounted to \$2,530. The manager of the hotel testified that the truck service would be a little more convenient; the owners of the hotel property, however, appeared to protest the granting of the application. Four grocers, two butchers, two soft drink dealers and a garage owner at Grass Valley testified in favor of the applicant. Only two of these witnesses, however, receive freight in any considerable volume and one of them testified that the truck service would be a convenience and not a necessity.

The financial condition of the principal protestant, the Nevada County Narrow Gauge Railway Company, is well known, not only to the Commission but to the general public, and need not be discussed here in detail. The road operated under a deficit of \$4,900 in 1920; the following year, because of unusual traffic conditions, there was a surplus of about \$2,700. Valuations made by us and by the Interstate Commerce Commission show the value of the road to be approximately \$600,000. In 1920 a traction expert, engaged to report upon the property, recommended that, should anything occur to deprive the road of all the traffic available in the territory, the operation be abandoned and the road be scrapped. Mining is the principal industry in Nevada

County and mines representing about 95 per cent of the industry are among the protestants. As will be seen from the appearances, the application is opposed not only by the Chambers of Commerce of Grass Valley and Nevada City, but by the cities themselves, also the county of Nevada; the Nevada County Development Association; The Half Century Club of Nevada City and Grass Valley; Quartz Parlor No. 58, Native Sons of the Golden West; The Nevada Irrigation District; The Nevada County Farm Bureau and The Colfax Chamber of Commerce. Petitions opposing the granting of the application, and signed by a large number of the merchants and citizens of both Grass Valley and Nevada City, were received at the hearing. Several merchants testified that the present service of the Southern Pacific and Nevada County Narrow Gauge was adequate and satisfactory. One of these merchants brings in by freight about 50 tons a month, another from 75 to 100 tons a month, and a third between 1200 and 1400 tons a year. The representative of the Standard Oil Company also testified as to the adequacy of the present service of the rail lines. There was some testimony to the general effect that the average time required to get freight from Sacramento to Grass Valley was three days. The record shows beyond question, however, that freight delivered to the Southern Pacific Company at Sacramento prior to 4 p.m. on any given day ordinarily reaches Grass Valley by noon of the following day. When consideration is given to the fact that a two-line haul is involved, one of which is narrow gauge, no criticism can be made as to the adequacy of the service by rail from Sacramento, and the same is true in equal degree as to the express service. No showing has been made here which would warrant the issuance of the certificate of public convenience and necessity sought by the applicant and the application will, therefore, be denied.

It will serve no useful purpose here to determine who is really the applicant for the certificate—M. E. Farriss, B. E. Farriss or C. H. Barker. It will suffice to say that B. E. Farriss on October, 1922, was notified that his operations between Sacramento and Grass Valley were in violation of the law; that upon receipt of that notice he so advised at least one of his patrons and thereafter arranged to make purchases in Sacramento for his patrons, paying for these himself and charging them with the amount, plus freight. Still later he made other arrangements for the use of the Pierce-Arrow truck which he had been operating between Sacramento and Nevada City, and then obtained from a Mr. Sandlin the 2-ton special White truck, heretofore referred to. The operation of this truck by Farriss as a carrier of produce proved unsuccessful and being unable to make the necessary payments on the truck, it was then sold by Sandlin to C. H. Barker, Farriss, however,

continued to exercise a keen interest in the operation of the truck, taught Barker's son how to run it and even made several trips on the truck himself for the purpose of obtaining data as to operating costs, etc. Although directed by Barker to call at various business houses in Sacramento for goods to be transported to Grass Valley and Nevada City, and although he was at the same time the agent of M. E. Farriss who had filed with us an application to operate a freight service over this route, Mr. Farriss' testimony indicates that he did not know whether the goods transported by him belonged to Barker or to the consignees thereof. It should be stated that Barker has apparently not regarded it necessary to resort even to the flimsy subterfuge just described of taking ownership of the goods and has operated practically every day between Sacramento and Nevada City up to and including the day of the hearing in clear and open violation of the law. Our order will require that Farriss cease and desist from the unlawful operations in which he has been engaged.

#### ORDER.

A public hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the above entitled application be and the same hereby is denied; and

*It is hereby further ordered*, that M. E. Farriss and/or B. E. Farriss and/or C. H. Barker be and they hereby are directed to discontinue operation of automobile trucks for the transportation of property for compensation between fixed termini and/or over a regular route in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto; and

*It is hereby further ordered*, that the secretary of the Railroad Commission be and he hereby is directed to forward a certified copy of the within Decision to the district attorneys of Sacramento County, Placer County and Nevada County, California.

Dated at San Francisco, California, this second day of April, 1923.

## DECISION No. 11886.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, IN THE NAME AND ON BEHALF OF ALL CARRIERS PARTIES TO PACIFIC FREIGHT TARIFF BUREAU EXCEPTION SHEET No. 1-H, C.R.C. No. 254, FOR AUTHORITY TO CANCEL SECTION B, RULE 105, SHOWN ON PAGE 16 OF THE TARIFF.

Application No. 8347.  
Decided April 4, 1923.

*E. W. Camp* and *J. E. Lyon*, for Applicant.  
*F. P. Gregson*, for Associated Jobbers of Los Angeles.  
*B. H. Carmichael*, for Corrugated Culvert Company, and Western Pipe and Steel Company.  
*Seth Mann*, for San Francisco Chamber of Commerce.  
*Frank M. Hill*, for Fresno Traffic Association.  
*E. W. Hollingsworth*, *R. T. Boyd* and *Bishop and Bahler*, for Western Pipe and Steel Company; California Corrugated Culvert Company; Pacific Coast Steel Company; Columbia Steel Company; Gunn, Carle and Company, and Steel Tank and Pipe Company.  
*W. D. Wall*, for Traffic Bureau San Jose Chamber of Commerce.  
*W. C. Hubner*, for Berger and Carter Company.  
*G. J. Olsen*, for Dunham, Carrigan and Hayden Company.  
*G. J. Bradley*, for Sacramento Merchants and Manufacturers Association.  
*J. C. Sommers*, for Stockton Chamber of Commerce.

BY THE COMMISSION.

## OPINION.

This application was filed informally on September 27, 1922, under section 63 of the Public Utilities Act, but because of objections on the part of shippers the Commission found it necessary to give the application formal consideration.

Public hearings were held before Examiner Geary in Los Angeles on January 17, 1923, and in San Francisco on January 19, 1923, and the matter having been duly submitted is now ready for a decision.

It is proposed to cancel section (b) of Rule 105, carried in Bureau Exception Sheet 1-H, C. R. C. 254, and thereafter to permit Rule 29 of the current Western Classification to apply.

Rule 105, paragraph (b), provides:

Freight charges on articles which are, or could be, loaded in a 36-foot box or stock car, through the side door by the use of the end window thereof, will be assessed on basis of actual weight.

Rule 29 of the Western Classification, to be substituted for Rule 105 (b) of the Exception Sheet, provides in Section 3:

Unless otherwise provided in separate description of articles, a shipment containing articles, of dimensions other than those specified in section 3 (b) of this rule, the dimensions of which do not permit loading through the center side doorway 6 feet wide by 7 feet 6 inches high, without the use of end door or window, in a closed car not more than 36 feet in length by 8 feet 6 inches wide and 8 feet high, shall be charged at actual weight and authorized rating, subject to a minimum charge of 4000 pounds at the first-class rate for the entire shipment.

Unless a lower rate is otherwise provided, a shipment which contains an article exceeding 22 feet in length and not exceeding 12 inches in diameter or other dimension, see section 3 (a) of this rule for the minimum charge where greater dimensions

are involved, shall be charged at actual weight and authorized rating, subject to a minimum charge of 1000 pounds at the first-class rate for the entire shipment.

If the application were granted, the result would be to assess a minimum charge, based on 4000 pounds at the first-class rate, against shipments which do not permit of loading through a center doorway 6 feet wide by 7 feet 6 inches high, of a 36-foot car without the use of the end door or window, and to assess a minimum charge, based on 1000 pounds at the first-class rate, for a shipment which contains articles exceeding 22 feet in length and not exceeding 12 inches in diameter, as against the present freight charges based on actual weight at the classification rate.

The adjustment of these rules has been the cause of many informal and several formal proceedings. A formal complaint, Case No. 823, was filed June 28, 1915, *Schmeiser Manufacturing Company vs. Southern Pacific Company*, and Application No. 1835 was filed August 5, 1915, by the carriers. Both of these proceedings were dismissed without prejudice, due to the fact that the controversy was adjusted in California by the carriers publishing Rule 31-B, effective August 15, 1915, in Bureau Exception Sheet No. 1-D, C. R. C. No. 90, which rule was republished in different tariffs and finally became Rule 105-B.

Applicant introduced an exhibit reviewing the history of the rules, beginning with Western Classification No. 30, effective January 25, 1900. That exhibit showed that when bulky or long articles could be loaded into a box car by use of the end window or door thereof, the charges were assessed upon the basis of actual weight and the class rate until May 5, 1915, when the rule was amended by Supplement No. 8 to Western Classification No. 53. The rule, with some slight changes, is now Rule 29 of the Consolidated Freight Classification.

There was much testimony as to the manner of handling the bulky and long articles and, without doubt, in many instances additional expense is incurred in placing the shipments in the car, for it is necessary to lift the long articles in order to pass them through the end window or door and, frequently, the very long articles make necessary the switching or moving of the cars at house platforms. Some of these articles must be loaded into the car in advance of other consignments because their weight makes it impossible to transport them on top of other freight without damage, and oftentimes they extend partly or completely across the side entrance of the car, necessitating the lifting of other freight through the car. Also, there is difficulty in unloading at destination, causing delay and additional expense.

Applicant's Exhibit No. 1 is a statement showing the equipment of The Atchison, Topeka and Santa Fe Railway, Southern Pacific Com-

pany, Western Pacific, Northwestern Pacific, Pacific Electric, San Diego and Arizona, Gulf, Colorado and Santa Fe and the Union Pacific.

Without going into the details of this elaborate exhibit, it is sufficient to call attention to the fact that The Atchison, Topeka and Santa Fe has 24,401 box cars under 40 feet in length. Of these, 24,211, or practically 99 per cent, are equipped with end doors or windows. The Southern Pacific Company has only a few box cars under 40 feet in length, all of which are equipped with end doors or windows; it also has 14,577 box cars over 40 feet in length and 100 per cent of these cars are equipped with end doors or windows. Of the box cars 40 feet and over in length owned by the other carriers, 94 per cent of the Western Pacific and 100 per cent of the Northwestern Pacific, Pacific Electric and Union Pacific are equipped with end doors or windows.

It would thus appear that in this Western territory there is a preponderance of cars having either end windows or end doors which can be used in the loading of the kind of freight covered by this application.

The application was protested by a number of interested shippers and the testimony of their witnesses indicated that within the State of California there is a constant and large movement of articles which, under the application of Rule 105 of the Exception Sheet, are now being transported in box cars with charges based on the actual weight and classification rate.

An exhibit was presented at Los Angeles on behalf of the shippers in Southern California illustrative of the effect the proposed change would have in the charges against bar iron susceptible of being loaded into a 36-foot box car by use of the end door or window. That exhibit showed that a bar of iron weighing 100 pounds loaded in a box car moved from Los Angeles to Victorville in the year 1916 carried a charge of 36 cents. At the present time the charge is 51 cents, and if forwarded under the proposed basis the charge would be \$7.90, an increase of \$7.39, and comparing the fourth-class freight rate of 26 cents in effect in the year 1916 with the fourth-class rate of 51 cents in effect today, we have an increase equal to 42 per cent, but if the charges were computed upon the proposed basis the same would amount to \$7.90, or an increase of 2094 per cent.

Another illustration is in a movement of a like shipment from Los Angeles to Santa Barbara. In 1916 the charge was 26 cents, in 1923 the charge was 36½ cents, an increase of 40 per cent. If the proposed basis were established the charge would be \$6.50, or comparing 1916 with 1923, an increase of 2400 per cent. Illustrations of this character could be multiplied, but all would show practically the same result.

At the San Francisco hearing similar testimony was presented, and it will only be necessary to refer to the one situation, covering the charges on iron culvert pipe moving from San Francisco to Dunsmuir, in box cars. Reference was made to a particular shipment weighing 325 pounds, the charges thereon being \$3.50 when forwarded in a box car. Under the proposed rule the charge would be \$46.80 or a penalty, by reason of the article being long and bulky of \$43.30. If a like shipment were forwarded from Redding to Dunsmuir the penalty charge would be but \$17.67.

The applicant's position is that the expense is greater in loading large and bulky articles into box cars than is sustained when the same tonnage consists of ordinary sized packages, but the illustration set forth above destroys the equity of the rule, for it costs no more to load culvert pipe into a car at San Francisco and unload it at Dunsmuir than to load the same culvert pipe into a car at Redding for unloading at Dunsmuir, but as to the San Francisco shipment there would be a penalty charge for loading of \$43.30, while at Redding the penalty charge would amount to only \$17.67.

This clearly illustrates the inequity of the proposed rule, for thereunder the further the shipment is hauled and the higher the rate the higher the penalty charge, notwithstanding the fact that the expense to the carrier in loading the long or bulky article at a given shipping station is exactly the same whether the shipment moves one mile or 1000 miles.

Reference might also be made to the fact that in many instances the large and bulky articles are loaded by the shippers and unloaded by the consignees. This is particularly true where the handling is at small stations having a limited number of warehouse employees and, without doubt, if the application were granted, carriers would continue to transport long and bulky consignments in box cars, a perfectly proper procedure for the conservation of equipment.

We fully appreciate the fact that there is additional expense to carriers in loading and unloading packages of unusual size, but the testimony in this proceeding does not justify the granting of the application.

The plea for cancelation of Rule 105 is primarily for the purpose of putting into effect the same regulation and charges as are now applied in connection with long and bulky articles moved in interstate traffic.

This Commission looks with favor upon uniformity, especially in rules and regulations, and in the past has not hesitated to authorize changes to conform with the regulations applying to interstate traffic or to those within adjoining states, but in this particular proceeding

we can not agree that the rule now in effect works any particular hardship on the carriers, but we do conclude that the changes proposed would redound to the great injury of California shippers.

The application should be denied without prejudice.

#### ORDER.

J. F. W. Gomph, agent for Pacific Freight Tariff Bureau acting for carriers parties to Pacific Freight Tariff Bureau, having requested authority to cancel section (b) of Rule 105, shown on page 16 of Bureau Exception Sheet No. 1-H, C. R. C. No. 254, covering the charges to be assessed for bulky and long articles of freight, hearings having been held, testimony in favor of the application and of protesting shippers having been heard, the matters and things connected with the application having been carefully considered, the Commission having found that the carriers have not justified the application and that the same should be denied;

*It is hereby ordered*, that the said application be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this fourth day of April, 1923.

#### DECISION No. 11887.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND THE THERMALITO IRRIGATION DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE WATER PROPERTIES HEREIN DESCRIBED, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE AND SALE OF WATER, ETC.

Application No. 8140.

Decided April 4, 1923.

\* *Raymond A. Leonard*, for Thermalito Irrigation District.

*C. P. Cutten* and *R. W. Du Val*, by *R. W. Du Val*, for Pacific Gas and Electric Company.

*Geo. F. Jones*, for Oroville Citrus Association.

*MARTIN*, Commissioner.

#### OPINION.

This is an application by Pacific Gas and Electric Company for authority to transfer to Thermalito Irrigation District all that portion of its water utility properties used in the distribution of water within the newly formed Thermalito Irrigation District, which joins in the application. Pacific Gas and Electric Company also asks permission to cease furnishing water to the public for use in the irrigation district and to enter into an agreement for the sale of water in wholesale



quantities to the district at a lower rate than is charged to individual consumers.

A public hearing in this matter was held at Oroville. All interested parties were duly notified and given an opportunity to be present and to be heard.

Only one protest against the granting of this application was filed by a consumer, who did not, however, appear at the hearing. The protest was based upon the fear that the consumer would not receive water if the distribution system were acquired by the district. However, as all the public utility obligations of Pacific Gas and Electric Company within the district boundaries are to be assumed by the Thermalito Irrigation District, the interests of all consumers will be adequately protected. It therefore appears that Pacific Gas and Electric Company may be relieved of the obligation to serve water to individual consumers within the district boundaries.

The established rate for measured service to individual consumers in this area is ten cents per miner's inch per day, distribution being made by Pacific Gas and Electric Company. Applicants now ask the Commission to authorize a rate of six cents per miner's inch per day for wholesale delivery to the Thermalito Irrigation District, the cost of distribution being borne by the district. Under the circumstances it appears that the proposed contract for the sale of water in wholesale quantities to the district will not diminish the supply available for other consumers nor will the proposed rate be discriminatory.

#### ORDER.

Joint application having been made to this Commission by Pacific Gas and Electric Company to sell and by Thermalito Irrigation District to purchase a certain water distribution system now owned and operated by Pacific Gas and Electric Company, more particularly described in Appendix "A" attached hereto and made a part hereof, and Pacific Gas and Electric Company having asked for authority to cease furnishing water to the public for use in the Thermalito Irrigation District, and Pacific Gas and Electric Company and Thermalito Irrigation District having asked for authority to execute an agreement for the sale and purchase of water in accordance with the terms and conditions of Exhibit "C," attached to and made a part of the application herein, a public hearing having been held hereon and the matter having been submitted;

*It is hereby ordered*, that the application herein be and the same is hereby granted, subject to the following conditions:

1. The authority herein granted shall apply only to that particular public utility property of Pacific Gas and Electric Company situated

within the boundaries of the Thermalito Irrigation District and described in Appendix "A" attached hereto and made a part hereof.

2. The consideration involved in this transfer shall not be urged before this Commission or any other public body as a measure of value for rate fixing or any purpose other than the transfer herein authorized.

3. Within thirty (30) days after its execution Pacific Gas and Electric Company shall file with this Commission a certified copy of the deed of conveyance by which Thermalito Irrigation District acquires title to the property herein authorized to be transferred.

4. Within ten (10) days from the date on which Pacific Gas and Electric Company actually relinquishes control and possession of the properties herein authorized to be transferred, a certified statement shall be filed with this Commission indicating the date upon which such control and possession was relinquished.

5. The authority herein granted shall apply only to such transfer as shall have been made on or before July 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of April, 1923.

#### APPENDIX "A."

Inventory of Property to be Conveyed by Pacific Gas and Electric Company to Thermalito Irrigation District.

The following described property situated within the boundaries of the Thermalito Irrigation District, in Butte County, California:

##### *Distribution Mains and Canals:*

1 inch standard screw pipe-----	94 linear feet
1½ inch standard screw pipe-----	22 linear feet
2 inch standard screw pipe-----	6,212 linear feet
3 inch standard screw pipe-----	17 linear feet
4 inch standard screw pipe-----	4,166 linear feet
6 inch standard screw pipe-----	1,240 linear feet
8 inch standard screw pipe-----	153 linear feet
4 inch riveted steel pipe, No. 16 gage-----	16,658 linear feet
6 inch riveted steel pipe, No. 16 gage-----	8,929 linear feet
8 inch riveted steel pipe, No. 16 gage-----	20,417 linear feet
16 inch riveted steel pipe, No. 14 gage-----	2,640 linear feet
22 inch riveted steel pipe, No. 14 gage-----	9,052 linear feet
30 inch riveted steel pipe, No. 14 gage-----	500 linear feet
6 inch cast iron pipe-----	35 linear feet
4 inch O.D. screw casing-----	7,476 linear feet
Concrete conduit, 22" diameter, 4" walls-----	175 linear feet

Together with all valves, fittings, saddles for service connections, pipe protection, service boxes, header boxes, rights of way or easements, etc.

## DECISION No. 11891.

IN THE MATTER OF THE APPLICATION OF SUNLAND RURAL TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO INCREASE ITS TELEPHONE RATES AND CHARGES.

Application No. 8229.

Decided April 4, 1923.

*Roger S. Page*, for Applicant.

BY THE COMMISSION.

## OPINION.

The Sunland Rural Telephone Company in its Application No. 8229, asks the Commission for authority to increase its rates for telephone service, alleging that its present rates are inadequate and not sufficient to enable it to operate without a loss and to make contemplated improvements in its service. In its supplemental application it asks permission to move its central office from Sunland to a point at or near Tujunga and to establish and put into effect such long distance rates as may be made necessary thereby.

A public hearing upon this application was held by Examiner Williams in Los Angeles, January 23, 1923.

Applicant operates a small telephone system in the Monte Vista Valley or district comprising the towns of Sunland and Tujunga and vicinity, in Los Angeles County and two toll circuits between Sunland and the city of Glendale, Los Angeles County. It is the outgrowth of a farmers' telephone line built by residents of the valley to Glendale where service was furnished by The Pacific Telephone and Telegraph Company from its exchange at that place. It was serving one hundred seventeen (117) subscribers as of January 1, 1923.

Applicant's lines are overloaded, its toll traffic has become too great for its facilities and its hours of service, 6.30 a.m. to 8.30 p.m. daily, are not considered adequate. Emergency service is furnished for fifty (50) cents per call, company collecting such charges and disbursing same to the operator who lives at the exchange office and puts through such calls.

Its present rates for local service are as follows:

	Business		Residence	
	Wall set	Desk set	Wall set	Desk set
Four-party line, per month-----	\$1 50	\$1 75	\$1 50	\$1 75
Ten-party line, per month-----	1 50	1 75	1 50	1 75
Extension, per month-----	1 00	1 00	1 00	1 00

Its toll rates now in effect are the so-called Burleson rates which were established during the period of federal control of telephone systems. It is not applicant's intention to make any change in toll rates except as necessitated by the change in location of its exchange.

The classes of service which petitioner desires to offer to the public and the rates therefor, are as follows:

	Business		Residence	
	Wall set	Desk set	Wall set	Desk set
Individual line, per month.....	\$3 75	\$4 00	\$3 25	\$3 50
Two-party line, per month.....	3 25	3 50	2 75	3 00
Four-party line, per month.....	3 00	3 25	2 25	2 50
Suburban line, per month.....	3 50	3 75	3 00	3 25
Extension, per month.....	1 00	1 25	1 00	1 25

No criticism of the service which is being furnished by applicant was made at the hearing.

Attached to this application is a petition signed by one hundred present and prospective subscribers to company's service, agreeing to rates for, and classifications of service as listed above.

Applicant did not submit an inventory and appraisal of its property, it asking that the Commission have made such inventory and appraisal and agreeing to accept the valuation determined thereby. Therefore, prior to the hearing an inventory was made by an engineer of the Commission, with the help of a company representative, and an appraisal was subsequently made by the Commission's engineer. This appraisal was used by the company in the preparation of its financial and other exhibits and it was presented at the hearing by the Commission's engineer.

The following elements of value, on a historical basis, as of October 1, 1922, were found:

1. Reproduction cost new, undepreciated..... \$10,890 00
2. Reproduction cost new, less depreciation..... 7,475 00
3. Nonoperative property as of October 1, 1922..... 2,050 00

The nonoperative property consists of a used switchboard, which company expects to install in its new exchange office, and about one hundred forty (140) telephones. As items from this account are placed in plant they should be transferred to operative accounts.

A study was made to ascertain the wire center of the system and this was found to be near Tujunga where company has purchased real estate and contemplates the erection of an exchange building. It is its intention to install therein the switchboard above referred to, and rebuild the wire plant to provide the classes of service proposed. Company also purposes to increase its regular hours of service to sixteen (16) and also, by employing an additional operator, to give free emergency service after regular service hours. On account of heavy traffic, company's present toll facilities being inadequate to properly handle the same, it is proposed to change its two iron wire toll circuits to copper and increase its toll facilities by the addition of a phantom circuit.

Applicant introduced exhibits setting forth its revenues and expenses as shown by its books for the year 1922, together with a set-up showing its estimated revenues and expenses under present and proposed rates for the year 1923. These statements were checked by the Commission's engineers who have made the following revised estimates of income and expenses:

*Comparative Statement of Income and Expenses.*

Revenues—	Actual 1922	Estimated for year 1923	
		At present rates	At proposed rates
Rentals -----	\$1,687 77	\$2,620 20	\$4,652 00
Tolls -----	4,323 00	4,595 00	3,742 00
Installation charges -----	215 50	162 50	162 50
	\$6,226 27	\$7,377 70	\$8,556 50
Expenses—			
Maintenance and operation -----	\$4,814 00	\$6,250 00	\$6,384 00
Contract rentals -----		71 00	192 00
Leased line rentals -----		320 00	480 00
Uncollectibles -----	63 00	37 00	43 00
Taxes -----	220 00	352 00	352 00
Central office rental -----	300 00	300 00	
	\$5,397 00	\$7,330 00	\$7,451 00
Net revenue -----	\$829 27	\$47 70	\$1,105 50
Estimated plant value -----	\$10,800 00	\$11,800 00	\$17,210 00
Percentage of return -----	7.7%	.4%	6.4%

In this statement the actual revenues and expenses for the year 1922, as shown, are as accurate as could be determined from the present inadequate system of bookkeeping in use by the company. Estimate for year 1923, at present rates, is based upon present plant and equipment with proposed hours of service; while estimate at proposed rates pre-supposes the fulfillment of company's program of moving its exchange office and reconstructing its lines. This statement shows that company actually did receive a reasonable return upon its investment for the year 1922, although, in its application, it is stated that the present rates do not enable company to operate without a loss. Company's president testified that it had always operated virtually without profit and that its apparent profit was brought about by the performance of services for it by various persons and corporations without proper compensation therefor. While it is true that company has never paid a dividend to its stockholders, it is a fact that with an original investment of approximately \$2,200, thirteen years ago and the reinvestment of all its earnings in the plant since that time, it has constructed a property which the Commission's engineers have valued at not less than \$7,500. It appears, however, that present rates are insufficient to yield a fair net return upon its investment for 1923, due chiefly to increasing operating costs as a result of extending the present hours of service and to the payment to The Pacific Telephone and

Telegraph Company of pole contact rental for the use of the latter's poles and for leased wire rental for facilities of the latter company within the city limits of the city of Glendale.

It will be seen by reference to the above comparative tables that the proposed rates should produce approximately \$8,557 gross revenue, and a net income of approximately \$1,106, which is equivalent to a return of 6.4 per cent upon \$17,210, which is the undepreciated reproduction cost new of the property plus the estimated cost of additions necessary to render the proposed service at the new location, or to a return of 7.9 per cent upon the depreciated reproduction cost new, plus the estimated cost of additions necessary to render the proposed service at the new location. These proposed rates are higher than rates in other localities for similar service, due, in part, to a widely scattered and thinly developed service area and to the twenty-four hour service. However, as this schedule of rates will not yield an excessive rate of return upon the investment, we are willing to authorize the company to file and make effective the schedule of rates as set forth in the following order.

In addition to the above proposed schedule of rates, applicant asks authority to file certain supplemental schedules covering mileage, vacation rates, additional directory listings, joint-user rates and pay station service, as set forth in supplemental schedules attached to the application and in its Exhibits Nos. 2, 4 and 5. These rates are the same as are generally in effect for similar service in California and we see no objection to their adoption in this case.

In its Exhibit No. 3, applicant proposes rates for "farmer line" service which are higher than the rates generally in effect for such service. Inasmuch as applicant is not now providing for this class of service, the Commission is unwilling to authorize the adoption of these rates without a further showing being made which would justify such a departure from standard practice.

Applicant proposes, in its Exhibits Nos. 6 and 7, certain "Rules and Regulations." We are willing to permit the filing of such of these "Rules and Regulations" as are provided for under this Commission's Decisions No. 2879, dated November 5, 1915, and No. 8146, dated September 24, 1920.

A map of the district in which company operates was placed in evidence at the hearing to show the boundaries of a proposed primary rate area which appears to be more extensive than is usually established for exchanges of similar size. Company has expressed willingness to extend this primary rate area as the settlement of the territory seems to warrant. The map as filed will be accepted as setting forth the primary rate area which will govern the mileage rates charged.

The removal of applicant's office from its present location in Sunland to Tujunga will alter air line distances to the various points, making use of applicant's long distance toll service and will effect corresponding changes in its present toll rates. No change of material consequence will result, however, and as the resultant rates will correspond to the rates now in effect between other points for similar service, there is no objection to their adoption in this case.

#### ORDER.

Application having been filed with the Railroad Commission by Sunland Rural Telephone Company for authority to increase its telephone rates, a public hearing having been held, and the matter having been submitted:

The Railroad Commission hereby finds that the present rates of Sunland Rural Telephone Company are unjust and unreasonable and that the rates hereinafter authorized are just and reasonable rates.

Basing its conclusions upon the foregoing finding and upon the other findings of fact referred to in the opinion preceding this order;

*It is hereby ordered*, that Sunland Rural Telephone Company be and it hereby is authorized to file with the Railroad Commission and make effective the following rates as set forth in Schedule A:

#### SCHEDULE A.

	Business		Residence	
	Wall set	Desk set	Wall set	Desk set
Individual, per month.....	\$3 75	\$4 00	\$3 25	\$3 50
Two-party, per month.....	3 25	3 50	2 75	3 00
Four-party, per month.....	3 00	3 25	2 25	2 50
Suburban, per month.....	3 50	3 75	3 00	3 25
Extension, per month.....	1 00	1 00	1 00	1 00

Provided, that the authority herein granted shall not become effective until Sunland Rural Telephone Company shall have submitted to this Commission satisfactory evidence that its central office has been moved to Tujunga, its lines and cables so rebuilt that it is in readiness to furnish to the public the various classes of service for which provision is made herein and until the Commission shall have issued its supplemental order herein. Such removal of its central office and reconstruction of its lines and cables shall be commenced within ninety days from the date of this order and completed within six months from the date of the commencement of such work unless, upon a proper showing, the Commission shall have granted an extension of time for the completion of such work.

*It is hereby further ordered*, that in addition to the rates set forth in Schedule A, Sunland Rural Telephone Company is authorized to

file and make effective concurrently therewith further schedules, as follows:

1. Pay station exchange service as set forth in its Exhibit No. 2.
2. Moves and changes as set forth in its Exhibit No. 4.
3. For service outside primary rate area, the following rates shall be effective, based upon air line mileage from the nearest point in the primary rate area, in addition to the foregoing rates:
 

Individual line, each quarter mile or fraction thereof, per month-----	\$0 50
Two-party line, each quarter mile or fraction thereof, per month-----	35
Four-party line, each quarter mile or fraction thereof, per month-----	25
4. Auxiliary apparatus:
 

Extension bell, per month-----	25
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5. Additional directory listings:
 

Additional listing, residence, per month-----	25
Additional listing, member same firm, same business, per month-----	25
Joint-user, per month-----	1 50

*It is hereby further ordered*, that Sunland Rural Telephone Company be and it hereby is authorized to file and make effective for the Tujunga exchange, upon the completion of the removal of its exchange office from Sunland to Tujunga, the reconstruction of its lines and cables and the issuance of its supplemental order by the Commission, a schedule of toll rates as authorized by Order No. 2495, dated December 13, 1918, and Order No. 2897, dated February 17, 1919, by the Postmaster General of the United States and which are now in effect for other toll points in California.

Dated at San Francisco, California, this fourth day of April, 1923.

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DECISION No. 11895.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF FIVE MILLION SIX HUNDRED THOUSAND DOLLARS OF PRINCIPAL AMOUNT OF THE WESTERN PACIFIC RAILROAD COMPANY'S FIVE AND ONE-HALF PER CENT EQUIPMENT TRUST CERTIFICATES, AND THE GUARANTEE OF THE PAYMENT OF SAME BY THE COMPANY.

Application No. 8812.

Decided April 4, 1923.

*F. M. Angellotti*, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

The Railroad Commission is asked to make an order authorizing The Western Pacific Railroad Company to issue and sell at 97½ per cent of their face value and accrued interest \$5,600,000 of 5½ per cent equipment trust certificates and to guarantee the payment of the principal of such certificates and the dividends thereon, all as outlined in this application.



The Railroad Commission by Decision No. 11263, dated November 23, 1922, in Application No. 8284, authorized applicant to issue on or before April 15, 1923, at not less than 92 per cent of their face value, plus accrued interest \$5,500,000 of first mortgage Series "B" 6 per cent bonds due March 1, 1946, and use the proceeds to pay for additional equipment. Applicant has since concluded not to issue its bonds. Its plan now calls for the purchase of equipment through the issue of \$5,600,000 of  $5\frac{1}{2}$  per cent equipment trust certificates. The certificates will mature serially at the rate of \$375,000 on March first of each of the years 1924 to 1937, inclusive, and \$350,000 on March 1, 1938.

Applicant has entered into agreements covering the purchase of 2000 thirty-ton steel underframe refrigerator cars, 100 steel underframe automobile cars, 6 freight locomotives, Mikado type, 100 logging cars, 20 steel passenger cars, 8 steel dining cars and 20 steel baggage cars. The aggregate estimated cost of the equipment, after all deductions and allowances, is reported at \$6,996,776. It is for the purpose of providing part of the moneys necessary for the payment of the equipment that applicant asks permission to issue and sell equipment trust certificates. The record clearly shows that applicant has need for additional equipment. By means of it, the company should be able to improve materially its transportation service.

I believe that this application should be granted and herewith submit the following form of order:

#### ORDER.

The Western Pacific Railroad Company having applied to the Railroad Commission for permission to issue equipment trust certificates or assume certain obligations under an equipment trust agreement and a lease agreement, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the equipment trust certificates is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income and that this application should be granted subject to the conditions of this order; therefore

*It is hereby ordered*, that The Western Pacific Railroad Company be and it is hereby authorized to execute an equipment trust agreement substantially in the same form as the agreement filed in this proceeding and marked "Exhibit B," also to execute a lease agreement substantially in the same form as the lease agreement filed in this proceeding and marked "Exhibit C."

*It is hereby further ordered*, that The Western Pacific Railroad Company be and it is hereby authorized to issue and sell, at not less than  $97\frac{1}{4}$  per cent of their face value and accrued dividends, \$5,600,000

of 5½ per cent serial equipment trust certificates, or to assume the obligations under the equipment trust agreement and the lease agreement which the company is herein authorized to execute.

The authority herein granted is subject to further conditions as follows:

(1) The proceeds obtained from the sale of the equipment trust certificates shall be used by applicant to pay, in part, the cost of the equipment referred to in the preceding opinion and in this application.

(2) The authority herein granted to execute an equipment trust agreement and a lease agreement is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said equipment trust agreement and said lease agreement as to such other legal requirements to which said equipment trust agreement and said lease agreement may be subject.

(3) The Western Pacific Railroad Company shall keep such record of the issue, sale and delivery of the equipment trust certificates herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted to issue equipment trust certificates or to assume obligations under the equipment trust agreement and the lease agreement herein authorized to be executed will become effective upon the payment by applicant of the fee prescribed by section 57 of the Public Utilities Act, and will expire on November 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of April, 1923.

## DECISION No. 11896.

IN THE MATTER OF THE APPLICATION OF THE SUNSET LAND AND WATER COMPANY, A CORPORATION, FOR AN ORDER CONSENTING TO THE LEASE TO M. S. MARTIN OF THE OIL, GAS AND HYDROCARBON SUBSTANCES UNDERLYING THE REAL PROPERTY HEREIN DESCRIBED AND PERMITTING M. S. MARTIN AND HIS ASSIGNEES TO DRILL FOR OIL, GAS AND OTHER HYDROCARBON SUBSTANCES ON SAID LAND.

Application No. 8731.

Decided April 5, 1923.

*Jas. P. Sweeney*, for Applicants.

BY THE COMMISSION.

## OPINION.

In the above entitled application, the Sunset Land and Water Company, a corporation, asks the Railroad Commission for an order authorizing it to execute a lease permitting M. S. Martin, Benjamin B. Dudley, Edmond Dudley and H. T. Martin to drill one or more wells for oil, gas and other hydrocarbon substances upon certain real property owned by it, situated near Sunset Beach, Orange County, California, and more particularly described as follows:

*Parcel No. 1*—Commencing at a point 30 feet north and 20 feet west of the southeast corner of the northeast quarter (N.E.  $\frac{1}{4}$ ) of the northwest quarter (N.W.  $\frac{1}{4}$ ) of section twenty-nine (29), township five (5) south, range eleven (11) west, S. B. B. and M.; thence north 200 feet; thence west 200 feet; thence south 200 feet, and thence east 200 feet to the place of beginning.

*Parcel No. 2*—Commencing at a point 612.6 feet north and 889 feet west of the southeast corner of the northeast quarter (N.E.  $\frac{1}{4}$ ) of the northwest quarter (N.W.  $\frac{1}{4}$ ) of section twenty-nine (29), township five (5) south, range eleven (11) west, S. B. B. and M.; thence north 200 feet; thence west 200 feet; thence south 200 feet, and thence east 200 feet to the place of beginning, being the land on which is situated a pumping plant and artesian wells.

*Parcel No. 3*—A strip of land two rods in width, one rod on each side of a line produced from the northwest corner of the first parcel of land as above described, to the southeast corner of the second parcel of land as above described, as shown on a map attached to that certain deed dated the 25th day of November, 1903, made by F. E. Robinson and Minnie A. Robinson to Sunset Beach Company, and recorded in the office of the county recorder of the county of Orange, California, in book 108, page 46 of deeds.

A public hearing in this matter was held before Examiner Williams at Los Angeles. All interested parties were duly notified and given an opportunity to be present and to be heard.

The testimony shows that the Sunset Land and Water Company is operating a public utility supplying water for domestic purposes to consumers in Sunset Beach and vicinity. It obtains all its water from artesian wells situated on a portion of the property involved in this proceeding. M. S. Martin has secured a lease on this property, subject to the approval of the Commission, and has transferred a three-fifths

(3/5) interest in said lease to Benjamin B. Dudley and Edmond Dudley, and a one-fifth (1/5) interest to H. T. Martin, all of whom have joined in this application.

The evidence clearly shows that the water supply can be adequately protected by observance of proper precautions in drilling oil or gas wells upon the tract in question. Other wells are now in operation in the immediate vicinity and in no case has oil or gas been encountered under great pressure, and only at a considerable depth below the water strata from which Sunset Land and Water Company secures its supply. It therefore appears that the application can be granted, subject to the conditions hereinafter set forth, without prejudice to the interests of the public dependent upon this water supply.

#### ORDER.

Application having been filed with this Commission asking for an order authorizing Sunset Land and Water Company to execute a lease permitting M. S. Martin, Benjamin B. Dudley, Edmond Dudley and H. T. Martin to drill one or more wells for oil, gas and other hydrocarbon substances underlying certain real property owned by the Sunset Land and Water Company, a public hearing having been held thereon and the matter having been submitted;

*It is hereby ordered*, that said application be and the same is hereby granted upon the following conditions:

I. No well for oil, gas or other hydrocarbon substances shall be located within 250 feet of any well now existing or being drilled, from which the Sunset Land and Water Company obtains or seeks to obtain its water supply, in whole or in part, unless otherwise ordered by supplemental order of this Commission.

II. Any well drilled for oil or gas upon the utility property of the Sunset Land and Water Company shall be properly encased with an outside casing of not less than 20 inches diameter, to a depth sufficient to reach a hard formation suitable for landing the casing and allowing the same to be cemented in by the usual and proper process employed for that purpose, but in any event, such casing shall be carried to a depth of not less than 500 feet and to a sufficient depth to properly seal off the artesian water strata from which the Sunset Land and Water Company now receives its artesian water supply. Within said outside casing there shall be installed an inner screw casing of a diameter not greater than 6 inches less than the diameter of the outside casing, and the space between the inner and outer casing shall be properly filled with cement for the entire depth of the outside casing, and the top of said casing shall be anchored in a suitable manner with a solid block of concrete and properly tied in with anchor rods. The installation of said casings and compliance with this condition in all particulars shall

be carried out under the direct supervision of the State Oil and Gas Supervisor, and shall, in all particulars not herein specifically set forth, be done in accordance with the orders of said supervisor.

III. The foregoing conditions shall be embodied in the provisions of the deed or other instrument used for the lease of the property or rights therein as herein authorized, and shall be made binding upon any and all successors in interest to the parties thereto.

IV. At the time of the lease transfer herein authorized M. S. Martin, Benjamin B. Dudley, Edmond Dudley and H. T. Martin shall deliver to Sunset Land and Water Company an indemnity bond executed by a surety company and approved by this Commission, in the sum of not less than five thousand dollars (\$5,000) for the indemnification of the Sunset Land and Water Company for any diminution or contamination of its water supply, or damage to its property or any part thereof, used and useful in the performance of its duties as a public utility water company which may result from any act or operation of M. S. Martin, Benjamin B. Dudley, Edmond Dudley and H. T. Martin, or their successors in interest in the use of the property herein authorized to be leased.

V. Within thirty (30) days after its execution, Sunset Land and Water Company shall file with the Railroad Commission a certified copy of the agreement under which said lease is made.

VI. The authority herein granted shall apply only to such lease as shall have been made on or before June 1, 1923.

VII. The consideration given for the lease of said public utility rights shall not be urged before this Commission or any other public body, as a finding of the value of said rights for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this fifth day of April, 1923.

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DECISION No. 11897.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, INC.,  
A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF  
FORTY-FOUR THOUSAND EIGHT HUNDRED DOLLARS PAR VALUE  
OF ITS CAPITAL STOCK.

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Application No. 8755.

Decided April 5, 1923.

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Warren E. Libby, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Pickwick Stages, Incorporated, asks permission to issue 1792 shares of its capital stock of the aggregate par value of \$44,800, for the purpose of financing, in part, the cost of additional equipment.

The record shows that Pickwick Stages, Incorporated, was organized during 1918 with an authorized capital stock of \$100,000 divided into 4000 shares of the par value of \$25 each. The company is engaged in the business of operating auto stages, in the counties of San Diego, Imperial, Riverside, Orange, San Bernardino and Los Angeles. Its assets and liabilities as of December 31, 1922, are reported as follows:

ASSETS.	
Plant and equipment.....	\$65,767 16
Securities of other corporations.....	3,300 00
Cash (credit balance).....	1,397 38
Accounts receivable.....	5,713 43
Materials and supplies.....	1,139 05
Special funds.....	1,823 50
Prepayments.....	424 88
Discount on stock.....	9,740 00
Total assets.....	\$86,510 64

LIABILITIES.	
Capital stock.....	\$55,300 00
Notes payable.....	3,298 77
Accounts payable.....	13,909 26
Reserve for accrued depreciation.....	10,998 41
Corporate surplus.....	3,004 20
Total liabilities.....	\$86,510 64

The revenues and expenses of the business, for the year ending December 31, 1922, have been submitted to the Commission as follows:

OPERATING REVENUES.	
<i>Transportation:</i>	
Passenger.....	\$232,234 01
Express.....	1,504 98
Mail.....	10 00
Other.....	1,219 63
	\$234,968 62
<i>Miscellaneous:</i>	
Rent of equipment.....	\$31,047 44
Rent of buildings.....	614 34
Storage.....	118 24
	31,780 02
Total operating revenues.....	\$266,748 64

OPERATING EXPENSES.	
Conducting transportation.....	\$198,714 50
Maintenance.....	43,065 07
Traffic.....	2,533 62
General.....	22,271 50
Total operating expenses.....	266,584 69
Net operating revenues.....	\$168 95
Nonoperating revenues.....	\$3,659 30
Nonoperating expenses.....	112 10
Balance.....	3,547 20
Net profit for year.....	\$3,711 15

The company reports that it owns nineteen passenger cars. It appears, however, that the demand for service has necessitated the leasing of additional equipment, and that in 1922 it expended \$109,799.72 in returning cars. Applicant believes that it will be more advantageous and economical for it to own its equipment.

Of the \$44,800 of stock applied for the company asks permission to deliver four shares, of the total par value of \$100, to its directors in lieu of stock heretofore issued but not authorized by the Commission. It asks permission to sell the remaining \$44,700 of stock for cash at par to provide funds to pay for equipment. The order herein will permit the issue of the \$44,800 of stock at not less than par. If the directors have heretofore paid par for their stock, four shares may be delivered to them without additional cost in exchange for the stock they now hold. If they did not pay par for the stock they now hold, applicant, before delivering the four shares, must collect from its directors an amount equal to the difference between the par value of the stock delivered and the amount heretofore collected from the directors.

It appears that applicant has made arrangements to purchase six twin-six fourteen passenger Packard automobiles and two eight passenger Cadillac automobiles, especially equipped for stage business, for \$38,000. While the application does not show the specific purposes for which the remaining \$6,700 of proceeds will be used, it is reported that such proceeds will also be expended for additional plant and equipment. The order herein will provide that all proceeds received from the sale of the stock herein authorized be expended only for capital purposes, as defined by the Uniform Classification of Accounts prescribed by the Railroad Commission for automotive transportation companies.

#### ORDER.

Pickwick Stages, Incorporated, having applied to the Railroad Commission for permission to issue and sell stock, and the Railroad Commission being of the opinion that this is not a matter in which a public hearing is necessary, and that the money, property or labor to be procured or paid for by such issue and sale is reasonably required by applicant;

*It is hereby ordered*, that Pickwick Stages, Incorporated, be and it is hereby authorized to issue and sell for cash at not less than par, 1792 shares of its capital stock of the aggregate par value of \$44,800.

The authority herein granted is subject to further conditions as follows:

1. The proceeds from the sale of stock shall be used to pay such cost of additional auto stages and equipment as is properly chargeable to plant and equipment accounts under the Uniform Classification of

Accounts prescribed by the Railroad Commission for automotive transportation companies.

2. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the date hereof and will expire on December 15, 1923.

Dated at San Francisco, California, this fifth day of April, 1923.

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DECISION No. 11901.

IN THE MATTER OF THE APPLICATION OF THE MOUNTAIN WATER COMPANY, A PUBLIC SERVICE CORPORATION, FOR AUTHORITY TO CONVEY ITS PROPERTIES TO THE CITY OF PASADENA

Application No. 8866.

Decided April 5, 1923.

BY THE COMMISSION.

**ORDER.**

Mountain Water Company, a public utility corporation engaged in the business of furnishing water for domestic and commercial purposes in and in the vicinity of that portion of the city of Pasadena known as Lamanda Park, having filed application for authority to transfer its system and other property, more particularly described in the form of deed attached to the application herein and marked Exhibit "A," to the city of Pasadena, a municipal corporation, for the sum of \$24,500, and the city of Pasadena having joined in the application and having agreed to take over the obligations of service now rendered by the Mountain Water Company; and it appearing that this is not a matter in which a public hearing is necessary and that the application should be granted;

*It is hereby ordered,* that the Mountain Water Company be and it is hereby authorized to transfer to the city of Pasadena the property described in the form of deed attached to the application herein and marked Exhibit "A," upon the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before June 30, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission within thirty (30) days from the date on which it is executed.



2. Within ten (10) days from the date on which Mountain Water Company actually relinquishes control and possession of the property herein authorized to be sold, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this public utility property shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this fifth day of April, 1923.

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DECISION No. 11916.

IN THE MATTER OF THE APPLICATION OF W. T. ESTEP TO HAVE  
TRANSFERRED TO HIM THE WATER WORKS DISTRIBUTING  
SYSTEM AND OTHER PROPERTY FORMERLY OWNED BY ESTEP  
& KOHLER, A PARTNERSHIP.

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Application No. 8572.

Decided April 13, 1923.

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*Salzman and Kornblum*, by *I. B. Kornblum*, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled application W. T. Estep asks that the water distributing system known as the North Moneta Garden Lands and Water Company, supplying water to the North Moneta Garden Lands Subdivision, Los Angeles County, California, be transferred from the copartnership of Estep and Kohler to W. T. Estep.

A public hearing was held at Los Angeles before Examiner Williams on March 31, 1923. Due notice of hearing was made and all interested parties were given an opportunity to be present and to be heard.

The property involved in this matter was transferred to the copartnership of Estep and Kohler by order of the Railroad Commission in Decision No. 10982, dated September 14, 1922.

The testimony shows that at or about the time the above transfer was authorized by the Commission the copartnership of Estep and Kohler was dissolved. Mr. Kohler in settling the partnership deeded all his title in the property to Mr. Estep. It is now impossible to locate him and obtain his participation in this application and he did not appear to contest the granting of the application, in response to published notice of the hearing filed herein as Applicant's Exhibit No. 1.

Mr. Estep has operated the water system since the transfer referred to above was authorized by the Commission, and has expended approximately \$5,000 on improvements to the system.

Satisfactory evidence was submitted at the hearing to show Mr. Estep's financial ability to carry on the operation of the utility business and it appears that the transfer of the system, as indicated, would be in the public interest.

**ORDER.**

Application having been made to the Railroad Commission as entitled above, wherein W. T. Estep asks authority to transfer certain public utility property from the copartnership of Estep and Kohler to W. T. Estep, a public hearing having been held thereon, and the matter having been submitted;

*It is hereby ordered*, that the authority sought in the above entitled application be and it is hereby granted, subject to the following conditions:

1. The property to be transferred consists of the south three (3) acres of lot fifteen (15), in tract No. 874, as recorded in book 18, page 136 of maps, Los Angeles County records, also all tanks, pumps, motors, piping, buildings, fixtures and appurtenances thereon belonging to Estep and Kohler and known as the North Moneta Garden Lands and Water Company and used in connection with its water utility business, together with the distribution pipe system and appurtenances located in said tract No. 874.

2. The consideration given for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value of said property for rate fixing or any purpose other than the transfer herein authorized.

3. The authority granted herein to transfer said property shall apply only to such transfer as shall have been made on or before July 1, 1923.

Dated at San Francisco, California, this thirteenth day of April, 1923.

**DECISION No. 11922.**

IN THE MATTER OF THE APPLICATION OF SATICOY WATER COMPANY, A CORPORATION, FOR PERMISSION TO EXTEND AND RENEW PROMISSORY NOTE.

Application No. 8843.

Decided April 13, 1923.

*Farrand and Slosson*, by *Chester E. Cleveland, Jr.*, for Applicant.

MARTIN, Commissioner.

**ORDER.**

Saticoy Water Company having applied to the Railroad Commission for permission to issue a six months 7 per cent promissory note in the principal amount of \$4,000 to Farmers and Merchants Bank of Santa Paula to renew, in part, a note issued pursuant to authority granted by

the Commission in Decision No. 7375, dated April 5, 1920, as amended, and having asked permission to renew such note from time to time for a total period of not exceeding three years after date of issue, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted, as herein provided;

*It is hereby ordered*, that Saticoy Water Company be and it is hereby authorized to issue a six months 7 per cent promissory note in the principal amount of \$4,000 to refund, in part, the note issued under authority granted by the Commission in Decision No. 7375, dated April 5, 1920, as amended.

The authority herein granted is subject to the following conditions:

(1) Applicant may, if it so desires, renew the note herein authorized from time to time, provided that the combined terms of the note herein authorized and of those issued in renewal thereof shall not exceed three years after date of this order.

(2) Within thirty days after the issue of the note herein authorized, applicant shall file a copy thereof with the Railroad Commission, as required by the terms of the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective upon the date hereof.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of April, 1923.

## DECISION No. 11926.

IN THE MATTER OF THE APPLICATION OF FROST AND FROST TRUCKING COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE CAPACITY LOAD MOTOR FREIGHT SERVICE BETWEEN BANNING, BEAUMONT, OAK GLEN, YUCAIPA, REDLANDS, HIGHLANDS, EAST HIGHLANDS, RIALTO, HIGHGROVE, AND POINTS INTERMEDIATE, ALSO POINTS REACHED BY TAP LINES, AND LOS ANGELES, WILMINGTON AND SAN PEDRO, CALIFORNIA.

Application No. 8686.

Decided April 13, 1923.

*Howard Robertson*, for Orange Belt Draymen's Association.

*Ward Chapman*, for Frost and Frost Trucking Company.

*A. B. Roehl*, for American Railway Express Company, Protestant.

*Devlin and Brookman*, for Hodge Transportation Company, Protestant.

*L. N. Bradshaw*, for The Southern Pacific Company, Protestant.

*Warren E. Libby*, for Franchise Freight Carriers Association.

*R. E. Wedekind and George F. Squires*, for Pacific Electric Railway, Protestant.

*F. D. Howell*, for Motor Transit Company, Protestant.

*E. E. Bennett*, for the Union Pacific, Protestant.

*E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.

SHORE, *Commissioner*.

## OPINION.

Marion L. Frost and Wesley H. Frost and Joseph A. Paterson, copartners, doing business under the fictitious name of Frost and Frost Trucking Company, have filed an application with the Railroad Commission in which they petition for a certificate of public convenience and necessity authorizing the operation of an automobile truck line for the transportation of freight in capacity load between Banning, Beaumont, Oak Glen, Yucaipa, Redlands, Highlands, East Highlands, Rialto, Highgrove and intermediate points adjacent thereto and Los Angeles, Wilmington and San Pedro. The application was amended by permission of the presiding Commissioner and the final amendment permitted, provided for the transportation of citrus fruits from the Redlands-Highlands District and Bloomington to Los Angeles, Wilmington and San Pedro, the transportation of deciduous fruits from Yucaipa Valley, Beaumont and Oak Glen and various packing and shipping centers more specifically named in applicant's amendment to amended Exhibit AA and for return of loads of fertilizer, packing house supplies and building materials.

The rates proposed vary according to the distance the commodity is moved, rates on return commodities being considerably lower than the rates on citrus and deciduous fruits moving from orchards or packing plants.

Public hearings were held at Los Angeles and Riverside, the matter duly submitted and the application is now ready for decision.

Applicant has available for the proposed service two Mack trucks of 2½-ton capacity each, two White trucks of 2½-ton capacity each, and one Reo 1½-ton capacity, four 3-ton trailers and one 2-ton trailer. These trucks are located principally at Redlands and are operated during the shipping season as traffic requires. The granting of the application was protested by the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad, Pacific Electric Railroad Company, American Railway Express, the Hodge Transportation System, the Orange Belt Draymen's Association, and by some 53 operators of trucking lines claiming interest in the territory proposed to be served by this applicant and by the Orange Belt Draymen's Association, the other applicant whose application was set for hearing at the same time and place.

Considerable evidence was introduced, principally from fruit growers, packers and shippers in the Redlands district and the Yucaipa Valley, as to the necessity for prompt and efficient transportation of citrus and deciduous fruits from the packing plants to Los Angeles and harbor points. It appears that there has recently developed a considerable movement of citrus fruits to northern coast points, such as Portland and Seattle and other Puget Sound ports, these shipments moving by trucks from packing plants to Wilmington and San Pedro, and thence by water to destination. It appears that orders are received from buyers in the northern territory for shipments on designated steamers leaving Los Angeles Harbor. A good portion of these shipments must be rushed to the harbor as soon as orders are confirmed, due to the short period of time available before the sailing time of the vessel designated to carry the shipment. Due to this fact, packing houses, particularly at Redlands, have found it necessary to depend for this service principally upon local trucking concerns which are able to furnish equipment promptly and upon very short notice. Frost and Frost have been rendering the major part of such service during the present season. In October of last year their attention was called to the fact that under the provisions of chapter 213, Statutes of 1917, as amended by chapter 280, Statutes of 1919, a certificate of public convenience and necessity is required before any one may engage in the business of transporting property for compensation over a regular route or between fixed termini. Records of this Commission show that Frost and Frost, after notification, agreed to file an application for a certificate. No such application was received by the Commission during the year 1922 or during January of 1923, although it is claimed by Frost that an application with supporting petition of numerous shippers was mailed to the Los Angeles office of the Commission. However, Frost and Frost, together with other trucking concerns, joined in an

application under the name of the Orange Belt Draymen's Association, a corporation. This application, it appears, was drawn up, signed and verified in December, 1922, but was not filed with the Commission until February 16, 1923, the same date the present independent application of the Frost and Frost Trucking Company was filed.

A short time prior to the filing of such application, several of the trucks operated by Frost and Frost were stopped by local authorities of the city of Los Angeles for violation of a local ordinance prohibiting operation of trucking concerns in the city of Los Angeles without a local permit from the city authorities. At an informal conference held in the city of Los Angeles, it was agreed that the Commission would issue to Frost and Frost Trucking Company a temporary certificate authorizing operation between Redlands district and Los Angeles harbor, provided a regular formal application for a permanent certificate be immediately filed.

At the informal conference above mentioned, it was shown from statements of various shippers that a necessity existed warranting the issuance of the temporary certificate for the transportation of citrus and deciduous fruits from Redlands to the harbor and on February 9, 1923, the Railroad Commission issued its Decision No. 11636 granting a certificate of public convenience and necessity to Frost and Frost Trucking Company, which certificate authorized the transportation of citrus fruits, namely oranges and lemons only, from packing houses located in and adjacent to Redlands to Los Angeles harbor. Such temporary certificate expressly prohibited the transportation of any other commodities whatsoever except those hereinabove named. This certificate was extended by supplemental orders, the last of which extended the time to and including the thirty-first day of March, 1923.

At the hearing upon the application of Frost and Frost Trucking Company for a permanent certificate, it appeared from the testimony of Marion L. Frost and Wesley H. Frost that they had not confined their operation under the temporary permit to the commodities therein authorized to be transported, but had in effect transported other commodities, particularly fertilizer, packing house supplies and building materials from the harbor district and Los Angeles to packing houses and orchardists. This unlawful operation was carried on by applicant with full knowledge of the provisions of state law and full knowledge that the temporary certificate which they held did not authorize them to engage in the transportation of property for compensation from harbor points and Los Angeles to Redlands or any other point east-bound.

The Railroad Commission, as a regulatory body, is required by both the constitution of the State of California and by statutory enactments,

to supervise and regulate public utilities engaged in business in the State of California. This Commission should not, we believe, grant to Frost and Frost Trucking Company a permanent certificate of public convenience and necessity in the face of the fact that the applicant now before this Commission not only operated in violation of the provisions of state law after written notification prior to the time they secured a temporary certificate, but that also after securing a temporary certificate, they continued their unlawful operation.

Considering the application from other aspects than the past action of applicants herein, it appears that Frost and Frost Trucking Company, a local Redlands concern, were seeking to establish service which would put Redlands in a preferential position as regards other points which they proposed to serve. Rate schedules proposed by applicant were required to be amended on five different occasions during the hearing upon this proceeding, principally because the schedules as proposed by this applicant were shown, on cross examination, to be in violation of section 21 of article 12 of the constitution of the State of California, prohibiting discrimination by transportation companies, or the charging of a greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction.

The final proposed rate of applicant of \$5 per ton on citrus fruits, Redlands district to San Pedro or Wilmington, showed such a close margin, if any, of gross return per mile over the actual cost of operation, that, with reasonable salary and depreciation allowances, it would soon appear, we believe, to be operating at a loss.

In recommending the denial of this application, we do so without prejudice to the pending application of the Orange Belt Draymen's Association, which, for purposes of the above mentioned proceeding, was consolidated with this application, or to any other application from responsible parties seeking to meet the particular shipping necessities of the district involved.

I hereby submit the following form of order:

#### ORDER.

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the above entitled application be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of April, 1923.

## DECISION No. 11930.

IN THE MATTER OF THE APPLICATION OF THE ETNA DEVELOPMENT COMPANY, A CORPORATION, AND THE TOWN OF ETNA, A MUNICIPAL CORPORATION, FOR AN ORDER AUTHORIZING THE SALE BY SAID THE ETNA DEVELOPMENT COMPANY TO SAID TOWN OF ETNA OF THE PLANT, WATER DISTRIBUTING SYSTEM, AND REAL AND PERSONAL PROPERTY INCIDENT THERETO, WITHIN THE LIMITS OF SAID TOWN OF ETNA, AND TERRITORY ADJACENT TO SAID TOWN.

Application No. 8876.

Decided April 13, 1923.

BY THE COMMISSION.

## ORDER.

Application having been made to this Commission by The Etna Development Company for authority to transfer to the town of Etna its public utility property devoted to the service of water to consumers in and in the vicinity of the town of Etna, and the town of Etna having joined in the application, and the Etna Development Company having asked to be relieved of its public utility obligations upon the completion of the proposed transfer, and it appearing that this is not a matter in which a public hearing is required and that the application should be granted;

*It is hereby ordered*, that the Etna Development Company be and the same is hereby authorized to transfer to the town of Etna its public utility water system supplying consumers in and in the vicinity of the town of Etna, upon the following conditions:

1. The authority herein granted applies to the lands, physical property and rights more particularly described in Exhibits "A" and "I" attached to and made a part of the application herein.

2. The consideration for the transfer herein authorized shall not be argued before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

3. The authority herein granted shall apply only to such transfer as shall have been completed on or before August 1, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission by the Etna Development Company within thirty (30) days from the date on which it is executed.

4. Within ten (10) days from the date on which the Etna Development Company actually relinquishes control and possession of the property herein authorized to be transferred, it shall file a certified statement indicating the date upon which such control and possession was relinquished.



*It is hereby further ordered*, that, upon the completion of the transfer of the properties herein authorized and compliance with the conditions contained in the order herein, the Etna Development Company be and the same is hereby relieved of its obligations as a public utility supplying water to consumers in and in the vicinity of the town of Etna, Siskiyou County.

Dated at San Francisco, California, this thirteenth day of April, 1923.

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DECISION No. 11933.

IN THE MATTER OF THE APPLICATION OF THE CAMPBELL WATER COMPANY, FOR PERMISSION TO SELL FOUR HUNDRED EIGHTY (480) SHARES OF ITS CAPITAL STOCK.

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Application No. 8832.

Decided April 17, 1923.

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*Bohnett, Hill and Campbell*, for Applicant.

*WHITTLESEY*, Commissioner.

OPINION.

The Campbell Water Company asks permission to issue and sell at par 480 shares (\$12,000 par value) of stock to acquire and construct properties and pay indebtedness.

Applicant has an authorized stock issue of \$25,000, divided into 1000 shares of \$25 each. Stock in the amount of \$13,000 is outstanding. Applicant has no bonded indebtedness. Its notes payable, amount to \$2,250 and its accounts payable, to \$4,847.51.

Applicant intends to acquire at a cost of \$9,000 from Geo. E. Hyde and Company, a corporation

Lot twelve (12) of the J. H. Campbell addition to the town of Campbell, with improvements thereon consisting of well, in which is installed a Layne and Bowler 10-inch pump, together with motor, building to protect well and motor, and 8-inch steel pipe leading from said pump to the supply tanks of applicant; that said well is 412 feet deep, with 75-h.p. motor, and with 100 feet of endless rubber belt.

Applicant has for some time past been obtaining part of its water supply from the well which it now seeks permission to purchase. The original cost of the well in 1919 was \$12,421.87. To pay for this property, applicant asks permission to use \$9,000 of the proceeds obtained from the sale of its stock. It also asks permission to expend \$1,078.23 of stock proceeds to pay notes and accounts payable and use the remainder \$1,921.77 to pay part of the cost of installing the improvements listed in its "Exhibit A" filed in this proceeding. The total cost of such improvements is estimated at \$2,338.27.

I herewith submit the following form of order:

**ORDER.**

The Campbell Water Company having applied to the Railroad Commission for permission to issue \$12,000 of stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that The Campbell Water Company be and it is hereby authorized to issue and sell at not less than par \$12,000 of common stock.

The authority herein granted is subject to further conditions as follows:

(1) The proceeds obtained from the sale of the stock herein authorized to be issued, shall be used for the following purposes:

- |   |            |
|---|------------|
| a. To acquire real property, well and equipment described in this application-----  | \$9,000 00 |
| b. To pay note due Geo. E. Hyde and Company-----  | 300 00     |
| c. To pay balance due George Raggio for laying pipe--   | 553 23     |
| d. To pay balance due Guilbert Bros. on 30-h.p. 3-phase Fairbanks - Morse motor, compensator, base and pulley-----  | 225 00     |
| e. The remainder of the proceeds shall be used to pay such cost of the improvements listed in applicant's "Exhibit A" as is properly chargeable to capital accounts under the Commission's uniform classification of accounts for water corporations. |            |

(2) The Campbell Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective on the date hereof and will expire on December 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of April, 1923.

## DECISION No. 11934.

IN THE MATTER OF THE APPLICATION OF LA HABRA DOMESTIC  
WATER COMPANY, A CORPORATION, FOR CERTIFICATE AUTHOR-  
IZING THE EXTENSION OF ITS SYSTEM.

Application No. 8602.

Decided April 17, 1923.

*Marks and Launer*, by *Albert Launer*, for Applicant.

BY THE COMMISSION.

## OPINION.

In this application, as amended, La Habra Domestic Water Company asks the Railroad Commission to make an order authorizing it to sell certain nonoperative property, to purchase property, to expend \$5,000 obtained from the sale of stock, and assume the payment of indebtedness.

A public hearing in this matter was held before Examiner Williams at Los Angeles.

The testimony shows that the La Habra Domestic Water Company obtains its present water supply through the ownership of stock of the La Habra Water Company, a mutual concern. It is of record that applicant's water supply from this source is uncertain and inadequate to serve properly the rapidly growing territory in which applicant is operating. It therefore desires to purchase additional water-bearing lands, wells and pumping equipment.

In the original application applicant contemplated purchasing two and one-half acres of land in La Habra, described as follows:

The easterly one hundred sixty-five (165) feet of the easterly rectangular three hundred twenty-five (325) feet of the south ten acres of the west one-half of the southwest quarter of the northwest quarter of section 4, township 3 south, range 10 west, S. B. B. and M.

It was the intention of applicant to drill wells upon this land and to connect such wells with its existing system. Since the filing of the original application it has been decided by applicant to purchase a different tract, such tract being described as follows:

The north two hundred sixty-four (264) feet of the east one-half of the east one-half of the southwest quarter of the northwest quarter of section 4, township 3 south, range 10 west, S. B. B. and M., said parcel being estimated to contain two acres; reserving therefrom for roads, railroads and ditches a strip of land thirty feet wide, along, adjoining and each side of the township and section lines, and a strip of land twenty feet wide along, adjoining and each side of the quarter section lines; also reserving the use and control of cienegas and natural streams of water, if any, naturally upon, flowing across, into or by said described tract, and reserving the right of way for and to construct irrigation or drainage ditches through said tract to irrigate or drain the adjacent land; also subject to an undivided one-half interest in and to the present  $\frac{3}{4}$ -inch gas line located approximately three hundred fifty (350) feet west of the east line of said parcel, and running from the north to the south line thereof, which said interest shall terminate with the abandonment of the use of said pipe line for such gas line purposes; and also reserving for road purposes

a strip of land twenty (20) feet in width and adjoining the west line of the above described premises, from the north to the south lines thereof.

A well and pumping plant are already installed upon this property, which is also suitable for the construction of a storage reservoir.

Applicant has agreed to pay for the properties \$25,000, \$2,500 being paid upon the execution and delivery of the agreement of sale and \$22,500 being due on or before October 12, 1924. Inasmuch as the \$22,500 of the purchase price is payable on or before October 12, 1924, the contract of purchase constitutes an evidence of indebtedness, the execution of which should be authorized by the Commission.

Through the purchase of the properties described above, applicant will have no further use of a nonoperative reservoir site of two and one-half acres which it purchased some years ago. It believes that it can sell this property for at least \$5,000.

By Decision No. 10932, dated September 2, 1922, in Application No. 8161, the Railroad Commission authorized applicant to issue \$17,000 par value of its common stock. The order of the Commission, among other things, provides that stock in the amount of \$5,000 shall be sold by applicant for cash at not less than par and the proceeds deposited with a bank or banks and expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

Applicant asks that it be permitted to use the \$5,000 for part payment of the purchase price of the property which it desires to acquire and for the construction of a connection between the new well and the present distribution system. It appears that it is the intention of applicant to later increase its authorized capital stock and hereafter file an application for permission to issue additional stock to pay the balance of the purchase price.

#### ORDER.

La Habra Domestic Water Company having asked permission to sell and purchase property and to expend the proceeds obtained from the sale of stock heretofore authorized by the Commission, a public hearing having been held and the Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that the La Habra Domestic Water Company be and it is hereby authorized to purchase, pursuant to the terms and conditions of the contract for the sale of real property filed in this proceeding, the property described in the foregoing opinion and in its amended application.

*It is hereby further ordered*, that La Habra Domestic Water Company be and it is hereby authorized to sell the following described property:

That portion of the Rancho La Habra, county of Orange, State of California, described as follows:

Beginning at a point in the easterly line of section 5, township 3 south, range 10 west, S. B. B. and M., distant thereon 587.4 feet southerly from the northeast corner of said section 5; thence south 89 degrees 50 minutes west 230 feet to a point; thence north 0 degrees 22 minutes west 473.48 feet to a point; thence north 89 degrees 50 minutes east 230 feet to a point in the easterly line of said section 5; thence south 0 degrees 22 minutes east 473.48 feet to the point of beginning, and containing 2.50 acres of land, more or less.

*It is hereby further ordered*, that the La Habra Domestic Water Company be and it is hereby authorized to execute a contract for the purchase of property substantially in the same form as the memorandum of agreement attached to the amended application filed in this proceeding.

*It is hereby further ordered*, that the order in Decision No. 10932, dated September 2, 1922, be and it is hereby modified so as to permit La Habra Domestic Water Company to expend \$5,000 obtained from the sale of stock, the issue of which is authorized by said order, to pay, in part, for the properties which it is herein authorized to purchase and for the construction of pipe lines.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted to purchase and sell properties shall not be urged before this Commission or any other public body as a finding of value of said properties for any purpose other than the transfer herein authorized.

(2) The authority herein granted to acquire properties will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is twenty-five dollars; and will expire on August 1, 1923.

(3) Within thirty (30) days after the execution of the instruments of conveyance certified copies of such instruments shall be filed by applicant with the Railroad Commission.

Dated at San Francisco, California, this seventeenth day of April, 1923.

## DECISION No. 11938.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, A CORPORATION, FOR PERMISSION TO CONSTRUCT, LAY DOWN AND MAINTAIN A SPUR TRACK ACROSS TWENTY-SECOND AND ADELINE STREETS AT GRADE IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

Application No. 8913.

Decided April 17, 1923.

By THE COMMISSION.

## ORDER.

San Francisco-Oakland Terminal Railways, a corporation, having on April 13, 1923, filed with the Commission an application for permission to construct a spur track at grade across Twenty-second street and Adeline street, in the city of Oakland, county of Alameda, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit (26173 N.S.) has been granted by the city council of said city of Oakland for the construction of said crossings at grade, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said Twenty-second and Adeline streets, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted San Francisco-Oakland Terminal Railways to construct a spur track at grade across Twenty-second and Adeline streets in the city of Oakland, county of Alameda, State of California, described as follows:

Beginning at a point on the center line of existing westbound track on Twenty-second street, 50 feet more or less westerly from the westerly property line of Adeline street produced, and running thence on curves to the left and right, respectively, to and across Adeline street, to a point on the easterly property line thereof, said point being distant northerly 10 feet from the northern property line of Twenty-second street; thence on a line parallel to said northern property line of Twenty-second street, to the westerly property line of Chestnut street, a total distance of 300 feet more or less.

All of the above as shown by the map (B-199) attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said street now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by a suitable crossing

sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(4) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this seventeenth day of April, 1923.

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DECISION No. 11939.

IN THE MATTER OF THE APPLICATION OF THE CUYAMACA WATER COMPANY, A COPARTNERSHIP, AND THE CITY OF EAST SAN DIEGO, CALIFORNIA, A MUNICIPAL CORPORATION, FOR AN ORDER AUTHORIZING THE SALE BY THE SAID CUYAMACA WATER COMPANY TO THE SAID CITY OF CERTAIN PORTIONS OF ITS DISTRIBUTION SYSTEM LYING WITHIN THE CORPORATE LIMITS OF SAID CITY.

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Application No. 8915.

Decided April 18, 1923.

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BY THE COMMISSION.

**ORDER.**

Cuyamaca Water Company, a copartnership, having made application to this Commission for authority to transfer to the city of East San Diego, certain portions of its public utility distribution system lying within the corporate limits of said city, and the city of East San Diego having joined in the application, and it appearing that this is not a matter in which a public hearing is required, and that the application should be granted;

*It is hereby ordered*, that Cuyamaca Water Company, a copartnership, be and the same is hereby authorized to transfer to the city of East San Diego certain portions of its distribution system lying within the corporate limits of the said city, and more particularly described in Exhibit "A," attached to and made a part of the application herein, upon the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before July 31, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission, by Cuyamaca Water Company, within thirty (30) days of the date on which it is executed.

2. Within ten (10) days from the date on which Cuyamaca Water Company actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this public utility property shall not be urged before this Commission or any other public body as a finding of value for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this eighteenth day of April, 1923.

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DECISION No. 11940.

IN THE MATTER OF THE APPLICATION OF OUTER HARBOR DOCK AND WHARF COMPANY FOR ORDER AUTHORIZING THE ISSUE OF STOCKS.

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Application No. 8837.

Decided April 20, 1923.

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*Paul M. Gregg and Jerry H. Powell, for Applicant.*

MARTIN, *Commissioner.*

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Outer Harbor Dock and Wharf Company to issue not exceeding \$1,850,000 of its Class "A" preferred stock, \$2,000,000 of its Class "B" preferred stock and \$1,000,000 of its Class "C" preferred stock for the purpose of paying indebtedness and of providing the cost of additional improvements and equipment.

Outer Harbor Dock and Wharf Company was organized on or about March 27, 1906, with an authorized capitalization of \$3,000,000 of common stock, of which amount \$2,625,150 is reported outstanding. It appears that recently the company has amended its articles of incorporation and now has an authorized capital stock of \$8,100,000 divided into \$5,100,000 of preferred and \$3,000,000 of common. The preferred stock is divided into \$2,000,000 of Class "A" stock, \$2,000,000 of Class "B" stock and \$1,100,000 of Class "C" stock. The holders of Class "B" stock are entitled to receive cumulative dividends at the rate of 6 per cent per annum before any dividends are paid on any other class of



preferred stock or on the common stock. The holders of Class "A" stock are entitled to receive, when declared by the board of directors, cumulative dividends at the rate of 6 per cent per annum after the dividends have been paid on the Class "B" stock and before any dividends are paid on the Class "C" stock or on the common stock. The holders of Class "C" stock are entitled to receive cumulative dividends at the rate of 6 per cent per annum after all the outstanding Class "B" and Class "A" stock has been retired and before any dividends are paid on the common stock. When all the outstanding preferred stock has been retired, dividends may be paid on the common stock.

The articles of incorporation, as amended, further provide that when all dividends have been paid on the Class "B" and Class "A" stock, the remainder of the surplus or net profits shall be paid into a sinking fund to be used to retire the Class "A" stock at par and accrued dividends. When all the Class "A" stock has been retired and all the cumulative dividends have been paid on the Class "B" stock, the net profits shall likewise be used to retire such Class "B" stock at par and accrued dividends. Similarly Class "C" stock shall be retired after all the Class "B" and Class "A" stock has been paid. In the event of liquidation or dissolution by the company, its net assets remaining after payment of bonds, or other indebtedness and unpaid dividends on the Class "B" stock shall be applied first to the payment of unpaid dividends on the Class "A" stock and the retirement of Class "A" stock at par. After the payment of the Class "A" stock, the holders of the Class "B" stock shall be entitled to be paid in full the par amount of their shares, and thereafter, the holders of Class "C" stock shall be entitled to be paid in full the par amount of their shares and the unpaid dividends thereon. The remaining assets and funds accrue to the holders of the common stock. A more complete statement of the preference of the various classes of stock is contained in the articles of incorporation on file in this proceeding.

Outer Harbor Dock and Wharf Company is engaged in the business of supplying warehouse, wharf, terminal and other facilities in what is known as the outer harbor at San Pedro, now a part of the city of Los Angeles. The company conducts its business on properties under leases from the city of Los Angeles. It appears that on February 14, 1906, a lease of certain submerged lands within San Pedro Harbor was granted by the city of San Pedro to Randolph H. Miner for a period of fifty years, subject to the approval of the United States War Department as to the boundaries of the lease, and upon the condition that the lessee reclaim and fill the lands and improve them by dredging deep sea channels and constructing a necessary seawall and bulkheads. The boundaries indicated in the lease were changed by the war department and

on July 23, 1907, a rewritten lease was executed incorporating the revised boundaries. On August 10, 1909, the city of San Pedro granted to certain individuals, franchises to construct wharves on the lands covered by the rewritten lease of July 23, 1907, the compensation specified for such grant being 2 per cent of the gross receipts arising from the use and operation of the wharves. These franchises, together with the Miner lease, were assigned to applicant, who commenced and completed the reclamation work called for.

Subsequent to August 10, 1909, the city of San Pedro became part of the city of Los Angeles. By an act approved May 1, 1911, the state legislature vested in the city of Los Angeles the title to tide lands and submerged lands in Los Angeles Harbor. In August, 1911, the city brought suit against applicant to quiet title and to recover possession of all the lands covered by the lease. On April 21, 1919, the superior court in and for the county of Los Angeles rendered a decree confirming part of applicant's claims and denying others. Applicant thereupon appealed the case to the supreme court of California. In order to compromise and settle the litigation, applicant and the city of Los Angeles, entered into an agreement dated April 4, 1922, by the terms of which the city leased to applicant for a period of 30 years from April 4, 1922, all the reclaimed lands covered by the original Miner lease and also the lands immediately south and constituting what is known as the Watchorn Basin, excepting certain reserved portions, and in addition granted to applicant a wharf franchise commencing August 10, 1929, and terminating April 4, 1952, covering approximately 3000 feet of wharf frontage on the channel situated east of applicant's leased lands.

The lands included within the lease comprise approximately 117 acres, of which 3,924,321 square feet, or about 90 acres, have been filled in and are usable. In addition, applicant has expended large sums in dredging channels, bulkheading and constructing wharves and docks. The channel to the east of the properties, known as the East Channel, is said to have a width of 400 feet, a length of approximately 4000 feet and a depth of 35 feet at mean low tide. In this channel, which is readily accessible to deep water, applicant has about 3000 feet of wharves and the city of Los Angeles about 2000. The channel on the west, known as the West Channel, varies in width from 300 to 600 feet and is about 4000 feet long and has been dredged to a depth of about 30 feet. Approximately 2400 feet of wharves are operated by applicant in this channel. The total wharfage operated by applicant is about 5380 feet, all of which is reported to be in good condition and should, in the opinion of applicant's vice president and general manager, outlive the term of the lease, which has twenty-nine years yet to run.

Upon the filled areas are two warehouses, one being of wooden construction, with about 45,000 square feet of floor space, and the other of

steel and hollow-tile constructions, with about 60,000 square feet of floor space. There is about half a mile of paved roads on the property and five miles of standard gauge railroad tracks connecting with the Southern Pacific Railroad Company, the Pacific Electric Railway Company and the Municipal Belt Line. The docks are equipped with six locomotive cranes and other equipment necessary in handling shipping.

At the hearing, Charles F. Leeds, a consulting engineer called as a witness by applicant, estimated that the cost to reproduce the properties, based on present day prices, would be about \$7,000,000. This opinion was sustained by Clarence H. Matson, formerly traffic manager of the harbor department of the city of Los Angeles, who estimated the reproduction cost in excess of \$8,000,000.

The purpose of this application is to refund indebtedness and to provide funds for additions and improvements. The testimony herein shows that the Union Oil Company of California has advanced applicant moneys which it is alleged were expended for proper capital purposes. On March 1, 1923, this amount aggregated \$2,806,796.33 and consisted of \$2,171,889.12 of short term 6 per cent notes and \$634,907.21 of open account indebtedness. Union Oil Company of California is willing, in discharge of this indebtedness, to accept at par \$1,000,000 of Class "C" preferred stock and up to, but not exceeding \$1,850,000 of Class "A" preferred stock.

Applicant intends to sell the \$2,000,000 of Class "B" stock at par in such amounts and at such times as funds may be required, to pay for the acquisition of properties and for the construction, completion, improvement and extension of its facilities. The company alleges that through the expenditure of \$2,000,000 its earning power will be increased to such an extent as to enable it to retire its present bonded indebtedness of \$804,000 and the \$4,850,000 of preferred stock it now proposes to issue, with all dividends, within thirty years. After paying operating expenses, interest on bonds and sinking fund requirements, the company reported a loss in 1919 of \$99,285.40, in 1920 of \$66,384.09 and in 1921 of \$28,350.77. In 1922 a net profit of \$44,520.21 was reported, while for the first three months of 1923, the net revenues amounted to \$43,589.57. Based on the results of this three months period, applicant estimates that its net revenue for the entire year of 1923 will aggregate \$240,000 with present equipment. With increased facilities, it is thought that the earnings of the business should be increased about thirty per cent.

Applicant plans to expend approximately \$501,000 in the immediate future for additions and betterments. These expenditures include \$100,000 for building 1200 feet of wharves, \$26,000 for 2600 feet of concrete roads, \$19,000 for 9700 feet of rail track, \$255,000 for two general frame structures 500 by 120 feet, \$75,000 for a storage grain

warehouse and \$26,000 for two additional cranes. The company is not in a position to advise the Commission definitely as to specific purposes for which it intends to use the remainder of the proceeds derived from the sale of the Class "B" stock, and the order herein will provide that such proceeds be placed in a special deposit to be expended only as authorized by the Commission in supplemental order.

In the opinion of applicant, the transaction proposed in this application will be of benefit to the public. Testimony herein shows that there is an increasing demand for harbor facilities in Los Angeles and that the present developed space is exhausted. The granting of this petition will enable the company to make additional wharf space available.

I herewith submit the following form of order:

#### ORDER.

Outer Harbor Dock and Wharf Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

*It is hereby ordered*, that Outer Harbor Dock and Wharf Company be and it is hereby authorized to issue not exceeding \$1,850,000 of its Class "A" preferred stock and \$1,000,000 of its Class "C" preferred stock at par to Union Oil Company of California in payment of indebtedness of like amount referred to in the foregoing opinion.

*It is hereby further ordered*, that Outer Dock and Wharf Company be and it is hereby authorized to issue and sell, at not less than par, \$2,000,000 of its Class "B" preferred stock and to use not exceeding \$501,000 of the proceeds to pay the cost of the extensions, additions and improvements referred to in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

(1) The remaining proceeds from the sale of the Class "B" stock, in excess of \$501,000, shall be placed in a special deposit and used only for such purposes as the Commission may authorize in supplemental order.

(2) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted to issue stock will become effective upon the date hereof and will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of April, 1923.

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DECISION No. 11941.

IN THE MATTER OF THE APPLICATION OF LAWRENCE WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application No. 8859.

Decided April 20, 1923.

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*McCutcheon, Olney, Mannon and Greene, by Ray Vandervoort, for Applicant.*

*BRUNDIGE, Commissioner.*

**OPINION.**

In this application Lawrence Warehouse Company asks permission to issue \$21,660 of its 8 per cent cumulative preferred stock in exchange for a like amount of common stock now outstanding.

Lawrence Warehouse Company, a corporation, engaged in the warehouse and drayage business in Oakland and San Francisco, was organized on or about June 27, 1913, with an authorized capital stock of \$10,000, all of which was issued pursuant to authority granted by the Railroad Commission in Decision No. 4310, dated May 10, 1917. Subsequently, the company increased its authorized stock to \$50,000 and by Decision No. 6464, dated June 30, 1919, was authorized to issue the remaining \$40,000 of stock to pay indebtedness and to provide working capital. Thereafter, during 1921, the company again increased its capitalization and created a preferred stock. The present capitalization is \$200,000, divided equally into common and preferred. The preferred stock bears cumulative dividends at the rate of 8 per cent per annum and is preferred both as to dividends and assets over the common. The company, at its option, may retire the preferred stock at any time upon one month's notice at 110 per cent of par value plus accrued dividends. Such retirement shall be effected either by payments out of surplus funds, if any, or from proceeds received from common stock, or, with the consent of preferred stockholders, by an exchange for common stock.

On December 31, 1922, the company reported no preferred and \$68,280 of common stock outstanding. Of the outstanding common stock, \$39,120 is reported held by the trustees of California Terminals Company. California Terminals Company was organized and operated as a holding company, its entire assets consisting of the \$39,120 shares of applicant's common stock. Recently, the Terminals Company has been disincorporated and it is in order for the trustees to distribute the assets to the stockholders. It appears that at the termination of its

existence, California Terminals Company had outstanding \$66,680 of common stock and \$33,320 of 8 per cent preferred stock. The holders of the preferred stock paid par therefor. The holders of \$21,660 of the preferred stock of California Terminals Company have requested, upon dissolution of the company, that they receive preferred stock of applicant in exchange for their preferred stock, instead of being obliged to accept their pro rata share of applicant's common stock. The owners of \$11,660 of preferred stock of California Terminals Company, who are also the owners of all of that company's outstanding common stock, are willing to accept the remaining \$17,460 of applicant's common stock for their holdings of Terminals Company stock.

I believe the petition of applicant should be granted, but that the order should contain a condition that the \$21,660 of common stock to be exchanged should be returned to applicant's treasury and not thereafter sold except as authorized by the Commission. The testimony shows that the exchange of stock will enable applicant to secure additional funds through the sale of stock.

I herewith submit the following form of order:

**ORDER.**

Lawrence Warehouse Company having applied to the Railroad Commission for permission to issue \$21,660 of preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the petition should be granted as herein provided;

*It is hereby ordered*, that Lawrence Warehouse Company be and it is hereby authorized to issue \$21,660 of its preferred stock in exchange for a like amount of common stock now outstanding.

The authority herein granted is subject to the following conditions:

1. The \$21,660 of common stock to be exchanged for a like amount of preferred stock shall be returned to applicant's treasury and thereafter not disposed of in any manner, except as authorized by the Commission.
2. Applicant shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
3. The authority herein granted shall become effective upon the date hereof and will expire on June 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of April, 1923.

## DECISION No. 11945.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO REIMBURSE ITS TREASURY FOR CAPITAL EXPENDITURES AND TO FINANCE THE CONSTRUCTION OF ADDITIONS, EXTENSIONS, BETTERMENTS AND IMPROVEMENTS, IN THE MANNER SET FORTH HEREIN.

Application No. 8773.

Decided April 20, 1923.

C. P. Cullen, for Applicant.

BY THE COMMISSION.

## ORDER.

Pacific Gas and Electric Company asks permission to use proceeds from the sale of stock and bonds, the issue of which has heretofore been authorized by the Commission, to pay the cost of extensions, additions and betterments to its properties and those of the Mount Shasta Power Corporation.

Applicant has filed with the Commission statements showing actual or estimated expenditures amounting to \$17,578,576.21, against which the Commission has not authorized the issue of any stock or bonds. This amount is made up as follows:

Actual expenditures to November 30, 1922 (Exhibit B)-----	\$5,266,217 84
Estimated authorized expenditures at November 30, 1922, on Pacific Gas and Electric System (Exhibit C and C-1)-----	5,829,814 30
Estimated cost of new construction arising out of the development of the Pacific Gas and Electric Company business and addition of new consumers during 1923 and 1924 (Exhibit D)-----	6,000,000 00
Estimated balance of capital expenditures authorized at November 30, 1922, on Mount Shasta Power Corporation properties (Exhibit E)-----	482,543 98
Total -----	\$17,578,576 21

Applicant reports that it has, or expects to have, available from the sale of stock and bonds, the issue of which has heretofore been authorized by the Commission, the sum of \$12,362,083.71. This amount is made up as follows:

Accounts receivable for applicant's first preferred stock sold to and including November 30, 1922:

Sold under Railroad Commission orders in Application No. 4704-----	\$490 00
Sold under Railroad Commission orders in Application No. 5898-----	1,258 00
Sold under Railroad Commission orders in Application No. 6229-----	12,377 50
Sold under Railroad Commission orders in Application No. 6585-----	12,087 32
Sold under Railroad Commission orders in Application No. 7234-----	17,969 19
Sold under Railroad Commission orders in Application No. 7432-----	304,200 90
Sold under Railroad Commission orders in Application No. 8104-----	826,470 71
	<u>\$1,174,893 71</u>

Proceeds received up to and including February 28, 1923, from the sale of 18,670 shares of first preferred stock authorized by the Railroad Commission in Decision No. 11534, Application No. 8550-----	\$1,408,640 49
Accounts receivable at February 28, 1923, on 4262 shares of first preferred capital stock authorized by Decision No. 11534, Application No. 8550 -----	278,549 51
Proceeds received from the sale of \$10,000,000 face amount of first and refunding mortgage gold bonds of Series "C" authorized by Railroad Commission by Decision No. 11577, Application No. 8625 -----	9,500,000 00
Total -----	\$12,362,083 71

Deducting the \$12,362,083.71 from the \$17,578,576.21 leaves a balance of \$5,216,492.50.

On November 30, 1922, the company had unsold \$574,300 par value of first preferred stock authorized by Decision No. 10872 and \$633,000 par value of first preferred stock authorized by Decision No. 11534.

Applicant asks permission to use the proceeds obtained, or to be obtained, from the sale of its stock and bonds, heretofore authorized to pay, in part, the cost of constructing the extensions, additions and betterments referred to in this order.

The Commission has considered applicant's request and believes that it should be granted subject to the conditions of this order; therefore,

*It is hereby ordered*, that Pacific Gas and Electric Company be and it is hereby authorized to use the proceeds obtained, or which it will obtain, from the sale of stock and bonds, the issue of which has heretofore been authorized by the orders of the Commission referred to in this order, to pay, in part, such cost of the extensions, additions and betterments described in Exhibits "B," "C," "C-1," "D," and "E" filed in this proceeding, as is properly chargeable to capital account under the uniform system of accounts prescribed or adopted by the Commission.

*It is hereby further ordered*, that the orders heretofore made in Applications Numbers 4704, 5898, 6229, 6585, 7234, 7432, 8104, 8550 and 8625 shall remain in full force and effect, except as modified by this order.

Dated at San Francisco, California, this twentieth day of April, 1923.



## DECISION No. 11946.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION AT GRADE OF A SPUR TRACK CROSSING FIVE COUNTY ROADS, IN THE VICINITY OF RICHGROVE, COUNTY OF TULARE, STATE OF CALIFORNIA.

Application No. 8806.

Decided April 20, 1923.

BY THE COMMISSION.

ORDER.

Southern Pacific Company, a corporation, having on March 17, 1923, filed with the Commission an application for permission to construct a track at grade across five county roads in the vicinity of Richgrove, in the county of Tulare, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit (Ordinance No. 178) has been granted by the board of supervisors of said county of Tulare for the construction of said crossings at grade, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with any of said county roads, and that this application should be granted subject to the conditions hereinafter specified;

*It is hereby ordered*, that permission be and it is hereby granted Southern Pacific Company to construct a track at grade across five county roads in the county of Tulare, State of California, described as follows:

*Crossing No. 1.* Commencing at a point on the east boundary line of the county road running north and south between sections 35 and 36, township 24 south, range 26 east, M. D. B. and M. situated 27.29 feet south of the intersection of the east boundary produced of said county road with the east and west center line of the said section 36; thence in a northwesterly direction a distance of 50.9 feet to a point in the west boundary line of said county road situated 16.85 feet south of the intersection of said west boundary line with the east and west center line of said section 35, crossing the center line of said road at engineer station "L" 46 plus 33.8.

*Crossing No. 2.* Commencing at a point on the east boundary of the county road running north and south between sections 35 and 34, township 24 south, range 26 east, M. D. B. and M. situated 30.5 feet north from the intersection of said east boundary of the county road with the east and west center line of said section 35; thence west a distance of 50 feet to a point in the west boundary of said county road crossing the center line of said road at engineer station "L1" 99 plus 43.

*Crossing No. 3.* Commencing at a point on the east boundary of the county road running north and south between sections 34 and 33, township 24 south, range 26 east, situated at a point in said east boundary 10.2 feet south of the intersection of said east boundary of the county road with the east and west center line of said section 34; thence in a southwesterly direction a distance of 51 feet to a point in the west boundary of said county road situated 19.8 feet south of the intersection of said west boundary line produced with the east and west center line of said section 33 crossing the center line of said road at engineer station "L1" 152 plus 24.0.

*Crossing No. 4.* Commencing at a point on the east boundary line of the county road running along the north and south center line of section 33, township 24 south,

range 26 east, M. D. B. and M. situated 40 feet south of the intersection of said east boundary of said road with the east and west center line of said section 33; thence west a distance of 50 feet to a point in the west boundary of said road crossing the center line of said road at engineer station "L" 178 plus 85.3.

*Crossing No. 5.* Commencing at a point on the east boundary of the county road running north and south between sections 33 and 32, township 24 south, range 26 east, M. D. B. and M. situated 45.8 feet south of the intersection of said east boundary line produced with the east and west center line of said section 33; thence west a distance of 50 feet to a point in the west boundary line of said road crossing the center line of said road at engineer station "L" 205 plus 36.

All of the above as shown by the map (17862) attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said county roads now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall each be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(4) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Nothing in this order contained is, or shall be construed as, a certificate of public convenience and necessity for the construction or operation of the line of railroad on which the crossings herein authorized are located.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this twentieth day of April, 1923.

## DECISION No. 11949.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF TWENTY MILLION DOLLARS AND SELL AND DISPOSE OF SUCH NOTES IN THE FACE AMOUNT OF FIVE MILLION DOLLARS.

Application No. 8331.

Decided April 20, 1923.

BY THE COMMISSION.

## THIRD SUPPLEMENTAL ORDER.

Western States Gas and Electric Company in its third supplemental petition filed in the above entitled matter, asks permission to use \$133,311.37 of the proceeds received from the sale of the notes authorized by Decision No. 11123, dated October 18, 1922, as amended, to finance construction expenditures made prior to February 28, 1923.

In Decision No. 11123, the Commission authorized Western States Gas and Electric Company to issue and sell, for cash, at not less than 91½ per cent of their face value and accrued interest, \$5,000,000 of Series "A" 6 per cent notes due November 1, 1937, or interim certificates of like amount. The order of the Commission as amended, permits the company to use \$318,848 of the proceeds to finance, in part, construction expenditures made prior to November 30, 1922, and to reimburse its treasury because of surplus earnings used to make sinking fund payments and in addition to use such amount of the proceeds as might be found necessary to pay or refund the \$1,199,000 of collateral trust notes due August 1, 1923, and the \$2,668,000 of 6 per cent notes due February 1, 1927. The remaining proceeds may be expended only as authorized by the Commission in supplemental orders.

Applicant now reports that during the month of December, 1922, and January and February, 1923, it expended for construction purposes the sum of \$146,834.94, as shown in some detail in exhibits attached to the supplemental petition. It appears, however, that a portion of these expenditures has already been paid or provided for through the issue of stock or bonds and that there remained a balance of uncanceled construction expenditures on February 28, 1923, of \$133,311.37. The company asks that it be authorized to use \$133,311.37 received from the sale of its notes to finance these reported expenditures.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore

*It is hereby ordered*, that Western States Gas and Electric Company be and it is hereby authorized to use \$133,311.37 of the proceeds received from the sale of the Series "A" 6 per cent notes authorized

by Decision No. 11123, dated October 18, 1922, as amended, to finance, in part, the cost of additions and betterments made prior to February 28, 1923, and not otherwise capitalized.

*It is hereby further ordered*, that the order in Decision No. 11123, dated October 18, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this twentieth day of April, 1923.

DECISION No. 11952.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER APPROVING A PROPOSED RECLASSIFICATION OF ITS CAPITAL STOCK, AND AUTHORIZING THE ISSUANCE AND SALE OF NINETY-FIVE THOUSAND SHARES OF SEVEN PER CENT CUMULATIVE NON-PARTICIPATING PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 8032.

Decided April 20, 1923.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Southern California Edison Company, in a supplemental petition filed in the above entitled matter on March 26, 1923, asks permission to use \$3,463,962.64 of the proceeds from the sale of the stock heretofore authorized to be issued by the Commission, to reimburse its treasury on account of moneys actually expended in paying bonded indebtedness.

The company reports that from January 1, 1917, to December 31, 1922, it expended the sum of \$3,463,962.64 in the retirement of \$3,743,000 of bonds. The bonds retired consist of the following:

Name	Face amount Retired	Amount of cash Expended
The Edison Electric Company 5's due 1922-----	\$289,000 00	\$317,900 00
Pacific Light and Power Corporation 5's due 1951----	2,136,000 00	1,903,308 74
Pacific Light and Power Corporation 5's due 1942----	1,015,000 00	928,935 02
San Gabriel Electric Company 6's due 1928-----	107,000 00	108,720 00
Mount Whitney Power and Electric Co. 6's due 1939--	95,000 00	102,598 50
Santa Barbara Gas and Electric Company serial 5's--	10,000 00	10,000 00
United Electric Gas and Power Company 5's due 1920--	38,000 00	40,060 68
Ventura County Power Company 6's due 1936-----	53,000 00	52,439 70
Total-----	\$3,743,000 00	\$3,463,962 64

The petition shows that these bonds were retired through the operation of the sinking funds of the various underlying mortgages and that no stock or bonds have been issued on account of such expenditures. In connection with the present request to refund the sinking fund payments, the Commission's attention is directed to the extensive construction work in progress, which it is said, makes it necessary for the com-

pany to maintain larger cash balances and to have available more cash working capital.

The capitalization of applicant's properties at this time is such as to permit the use of not exceeding \$3,463,962.64 obtained from the sale of stock for purposes indicated in this order.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore

*It is hereby ordered*, that Southern California Edison Company be and it is hereby authorized to use not exceeding \$3,463,962.64 of the proceeds received, or to be received, from the sale of stock heretofore authorized to be issued and sold by the Commission to reimburse its treasury on account of moneys expended in the retirement and discharge of the obligations referred to herein, provided that such moneys, after the reimbursement of applicant's treasury, be used to finance, in part, such cost of the extensions, additions and betterments reported in applicant's exhibit No. 2 filed in Application No. 8591 as is properly chargeable to capital account under the system of accounts prescribed or adopted by the Railroad Commission; or to pay for replacements, or used as working capital.

*It is hereby further ordered*, that the orders in decisions in Applications Nos. 2743, 4790, 5312, 6426, 7373, 7840 and 8032 shall remain in full force and effect except as modified by this fifth supplemental order.

Dated at San Francisco, California, this twentieth day of April, 1923.

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DECISION No. 11953.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA WAREHOUSE AND DISTRIBUTING COMPANY, A COPARTNERSHIP, TO SELL ITS BUSINESS, AND OF PACIFIC-SOUTHWEST WAREHOUSE COMPANY, A CORPORATION, TO PURCHASE SAID BUSINESS, AND FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK BY SAID CORPORATION.

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Application No. 8803.

Decided April 24, 1923.

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*E. E. Bennett*, for Applicants.

MARTIN, *Commissioner*.

OPINION.

In this application, the Railroad Commission is asked to make an order authorizing Southern California Warehouse and Distributing Company to sell its properties to Pacific-Southwest Warehouse Company and Pacific-Southwest Warehouse Company to issue \$200,000 of stock.

The application and testimony shows that R. L. Bowman, E. C. Chandler and P. C. Sinclair, as copartners under the name of Southern California Warehouse and Distributing Company, since October 1, 1921, have been engaged in business in Los Angeles as public warehousemen, storing automobiles only. The revenues and expenses of this business for the three months ended December 31, 1921, and the year ended December 31, 1922, are reported as follows:

	Oct. 1 to Dec. 31, 1921	Jan. 1 to Dec. 31, 1922
Operating revenues .....	\$11,476 74	\$58,185 62
Operating expenses .....	9,221 39	42,101 53
Net operating revenues .....	\$2,255 35	\$16,084 09
Nonoperating revenues .....	108 82	131 03
Gross corporate income .....	\$2,364 17	\$16,215 12
Deductions:		
Interest .....	\$637 24	\$3,388 90
Depreciation .....	599 66	2,971 56
Miscellaneous .....	24 24	257 26
Total deductions .....	\$1,261 14	\$6,617 72
Net corporate income for period .....	\$1,103 03	\$9,597 40

For the two months period ending February 28, 1923, the company reports revenues of \$16,256.59, operating expenses of \$11,551.10, deductions from income of \$1,645.68 and net profit for the two months of \$3,059.81. The assets and liabilities of the copartnership, as of February 28, 1923, are reported as follows:

## ASSETS.

## Current assets:

Cash in bank and on hand .....	\$4,346 55	
Customers' accounts .....	32,641 97	
Gas and oil .....	39 92	
Railroad claims .....	225 00	
		\$37,253 44

## Property and equipment:

Lease .....	\$23,625 00	
Buildings .....	147,356 56	
Spur track .....	1,438 26	
Truck .....	1,085 99	
Warehouse equipment .....	1,765 93	
Furniture and fixtures .....	1,510 30	
		176,782 04

## Other assets:

Prepaid expenses .....	\$873 37	
Incorporation expense .....	229 00	
		1,102 37
Goodwill .....		50,000 00

Total assets ..... \$265,137 85

## LIABILITIES.

*Current liabilities:*

Notes payable -----	\$12,500 00	
Accounts payable -----	27,040 48	
		<u>\$39,540 48</u>

*Deferred liabilities:*

Building purchase contract payable semiannual install- ments of \$5,690.76 -----	\$70,343 11	
Spur track purchase contract payable in annual install- ments of \$215.74 -----	1,006 78	
		<u>71,349 89</u>
Reserves for depreciation -----		4,247 53
Capital -----		<u>150,000 00</u>
Total liabilities -----		<u>\$265,137 85</u>

It appears that the members of the copartnership have decided that the business can be operated more economically and efficiently by a corporation, rather than by a copartnership, and for that reason have caused the organization of Pacific-Southwest Warehouse Company.

The Pacific-Southwest Warehouse Company was incorporated on or about February 20, 1923, with an authorized capital stock of \$250,000, divided into 2500 shares of the par value of \$100 each, all shares being common. The company proposes to assume the payment of outstanding indebtedness of \$110,890.32 and to issue \$150,000 of stock in payment for the properties and business of the copartnership. In addition, it proposes to issue and sell \$50,000 of its stock at not less than 90 to obtain funds to pay in part the indebtedness it intends to assume.

The record indicates that the amount of stock to be issued in part payment of the properties, \$150,000, was determined by deducting the outstanding liabilities from the amounts at which the assets appear on the books. However, there are included among the assets amounts of \$23,625, representing leasehold values and \$50,000 representing goodwill. It appears that Pacific-Southwest Warehouse Company will acquire a twenty-five year noncancellable lease from Union Pacific Railroad Company for the lot upon which the warehouse is situated. Because of the long term of the lease and the fact that it is noncancellable and because of the advantageous location of the properties upon a spur track connecting with the Los Angeles and Salt Lake Railroad Company, the lessees allege that a value attaches to the lease they hold. The value claimed, \$23,625 was determined, it is reported, by assuming a value of fifty cents for each square foot of floor space. Applicants allege that the business possesses goodwill or going concern value of \$50,000 because its operations are conducted almost without competition in the immediate vicinity, and because no expense was incurred for development purposes, the business now handled having been readily secured.

I do not believe that applicants have made a showing justifying the issue of \$150,000 of stock for the properties of Southern California Warehouse and Distributing Company. The order herein will authorize Pacific-Southwest Warehouse Company to issue \$80,000 of stock in part payment of such properties and to sell \$50,000 of stock to pay indebtedness.

Under the Public Utilities Act, a warehouseman may sell public utility properties without an order of the Commission. The request of Southern California Warehouse and Distributing Company to sell properties will therefore be dismissed.

I herewith submit the following form of order:

#### ORDER.

Application having been made to the Railroad Commission for permission to transfer property and to issue \$200,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$130,000 of stock is reasonably required by applicant;

*It is hereby ordered*, that Pacific-Southwest Warehouse Company be and it is hereby authorized to issue \$80,000 of stock and to assume the payment of not exceeding \$111,000 of indebtedness in full payment for the properties and business of Southern California Warehouse and Distributing Company, and to issue and sell, at not less than 90 per cent of par value \$50,000 of stock for the purpose of paying in part the indebtedness, the payment of which it is herein authorized to assume.

*It is hereby further ordered*, that the application, in so far as it relates to the transfer of properties and the issue of \$70,000 of stock, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when Pacific-Southwest Warehouse Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$111, and will expire on July 15, 1923.



The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of April, 1923.

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DECISION No. 11968.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF CERTAIN FRANCHISE RIGHTS AND THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A HIGH PRESSURE TRANSMISSION MAIN AND DISTRIBUTION SYSTEM IN THE TOWN OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

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Application No. 8823.

Decided April 25, 1923.

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*C. P. Cutten*, by *R. W. Dural*, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

Pacific Gas and Electric Company asks the Railroad Commission to declare that public convenience and necessity require the exercise by applicant of the rights and privileges granted by Ordinance No. 100, passed February 7, 1923, by the board of trustees of the town of Mountain View, county of Santa Clara, State of California. A hearing was held on April 12, 1923, and the matter submitted.

A copy of this ordinance has been filed in this proceeding. In general, it grants to Pacific Gas and Electric Company, its successors and assigns, for a term of fifty (50) years, the right to lay and maintain gas pipes, mains and conduits in the highways, streets and alleys in the town of Mountain View and to use the same for the purpose of conveying, distributing and supplying gas to the public, and particularly to the inhabitants of the town of Mountain View for light, heat, power and all lawful purposes, all rights being subject to the terms and conditions set forth in the ordinance.

Among other things, the ordinance requires that applicant, its successors and assigns, pay during the life of the franchise to the said town of Mountain View, an amount equal to 2 per cent of the gross annual receipts arising from the use, operation or possession thereof, provided that no payments need be made during the first five (5) years succeeding the date on which the franchise was granted.

Evidence shows that no other utility is at present supplying gas in said town of Mountain View, that applicant has adequate facilities for

so doing, and moreover that applicant desires and intends, if authorized by this Commission, to proceed at once to install the necessary transmission and distribution system to adequately render this service. Applicant reports the cost of securing this franchise at one hundred dollars (\$100), and has filed a stipulation agreeing that neither it nor its successors nor assigns will ever claim before the Railroad Commission of the State of California, or any court or other public body having jurisdiction, a value for this franchise in excess of one hundred dollars (\$100).

I hereby submit the following form of order.

#### ORDER.

Pacific Gas and Electric Company having asked the Railroad Commission to declare that public convenience and necessity require applicant, its successors and assigns to exercise the rights and privileges granted to it by the town of Mountain View, county of Santa Clara, under Ordinance No. 100, passed on February 7, 1923, by the board of trustees, of the said town of Mountain View, public hearing having been held and it appearing to the Railroad Commission that public convenience and necessity require the exercise by applicant, its successors and assigns of the rights and privileges referred to in said ordinance; therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require the exercise by Pacific Gas and Electric Company, its successors and assigns of the rights and privileges conferred upon it by Ordinance No. 100, passed on February 7, 1923, by the board of trustees of the town of Mountain View.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission in the State of California.

Dated at San Francisco, this twenty-fifth day of April, 1923.

## DECISION No. 11977.

IN THE MATTER OF THE APPLICATION OF HAPPY VALLEY IRRIGATION DISTRICT FOR ABANDONMENT OF SERVICE OF WATER.

Application No. 8667.

Decided April 26, 1923.

IRRIGATION DISTRICT—ABANDONMENT OF SERVICE OF WATER.—Commission held that it has no jurisdiction. Application dismissed.

*Carr and Kennedy*, by *Francis Carr*, for Applicant.  
*C. W. Leninger*, for S. R. Miller.

BY THE COMMISSION.

## OPINION.

In this proceeding applicant requests the Commission to grant it permission to abandon its main canal from the head works to Hoover Creek, a distance of approximately twelve miles, and to abandon its service to S. R. Miller, the only remaining consumer on that portion of the main canal.

An order to show cause was issued on February 28, 1923, directing applicant to appear and show cause, if any it had, why this Commission should not dismiss the said application for want of jurisdiction on the ground that applicant is a public corporation, not subject to the provisions of the Public Utilities Act, nor to regulation by this Commission.

A public hearing was held in this matter before Examiner Satterwhite at Redding. It appeared at the hearing that, due to the high seepage losses and expense connected with operating that portion of the applicant's canal which it now seeks to abandon, a tunnel was constructed to replace the canal. The only remaining consumer on the canal referred to in this proceeding who comes within the terms of this Commission's Decision No. 4771, dated October 20, 1917, in Application No. 3236, *In the Matter of the Application of Happy Valley Land and Water Company and Happy Valley Irrigation District, for an order approving lease and option agreement and authorizing the water company to sell and convey its property to the irrigation district*, is the said S. R. Miller.

It seems clear that, under the doctrine of the California Supreme Court in the case of *City of Pasadena vs. Railroad Commission*, 183 Cal. 526 (1920), this Commission has no jurisdiction over the subject matter of this application, and that the application should be dismissed. Therefore

*It is hereby ordered*, that the application herein be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of April, 1923.

## DECISION No. 11978.

IN THE MATTER OF THE APPLICATION OF POTRERO TRANSIT COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL ITS CAPITAL STOCK.

Application No. 8851.

Decided April 27, 1923.

*Morrison, Dunne and Brobeck*, by *E. S. Taylor*, for Applicant.

*SEAVEY, Commissioner.*

## OPINION.

Potrero Transit Company asks permission to issue 500 shares (\$50,000) of common capital stock. It intends to issue and sell each of its five incorporators one share of its capital stock for the sum of \$100; to issue and sell at par to J. D. and A. B. Spreckles Securities Company twenty shares (\$2,000), and to issue four hundred and seventy-five shares (\$47,500) to J. D. and A. B. Spreckles Securities Company or its assigns, in payment for the steamer "Potrero."

The steamer "Potrero" which applicant proposes to acquire is described in applicant's Exhibit "B" as follows:

A stern wheel light draft wood hull steamer.	
Certificate No. 263.	
Official number 150855.	
Registry, San Francisco.	
Length between perpendiculars	145 feet.
Beam, moulded	35 feet.
Depth	8 feet.
Draft, mean; light	2 feet.
Draft, mean; loaded	5 feet.
Net tonnage	452

The reproductive value of the steamer is reported at \$95,000 and the reproductive value less depreciation at \$47,500.

Applicant was organized on or about February 26, 1923, with an authorized capital stock of \$50,000, divided into five hundred shares of the par value of \$100 each. All of the stock which applicant asks permission to issue, except shares necessary to qualify directors, will be issued to the J. D. and A. B. Spreckles Securities Company.

I herewith submit the following form of order:

## ORDER.

Potrero Transit Company having applied to the Railroad Commission for permission to issue \$50,000 of common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided; therefore,

24-24801

*It is hereby ordered*, that Potrero Transit Company be and it is hereby authorized to issue \$50,000 of common capital stock.

The authority herein granted is subject to the following conditions:

1. Five shares of applicant's stock shall be issued and sold, for cash, to applicant's incorporators, and the proceeds used for working capital. Twenty shares of applicant's stock shall be issued and sold, for cash, at par to J. D. and A. B. Spreckels Securities Company, and the proceeds used for working capital. Four hundred and seventy-five shares of applicant's stock shall be issued to J. D. and A. B. Spreckels Securities Company, or its assigns, in full payment for the steamer "Potrero" described in this application, such steamer to be transferred to applicant free and clear of all encumbrances.

2. Potrero Transit Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will become effective on the date hereof and will expire on October 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.

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DECISION No. 11979.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF PREFERRED CAPITAL STOCK.

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Application No. 8886

Decided April 27, 1923.

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*B. D. Marx Greene*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

El Dorado Water Corporation asks permission to issue and sell at a price of not less than \$90 net per share 550 shares (\$55,000 par value) of preferred capital stock.

El Dorado Water Corporation has amended its articles of incorporation and under such amended articles has an authorized stock issue of \$200,000, divided into 2000 shares of \$100 each. Of this stock, 1000 shares are common and 1000 shares preferred. The holders of

the preferred stock "shall be entitled to receive from the surplus or net profits of the corporation a yearly cumulative dividend of seven (7) per cent, payable before any dividend shall be paid on the common stock. The holders of preferred stock shall be entitled to no dividend beyond the seven (7) per cent aforesaid. On dissolution or liquidation of the corporation the holders of the preferred stock shall be entitled to receive the full par value of their said stock, and all unpaid dividends accrued thereon, before any payment is made on the common stock; and any property remaining shall be distributed ratably among the holders of the common stock." Of the company's common stock, \$75,000 is outstanding. All of this common stock, except directors' qualifying shares, is owned by the El Dorado Water Users Association.

The Railroad Commission by Decision No. 11580, dated February 3, 1923, authorized Diamond Ridge Water Company to transfer to El Dorado Water Corporation possession of its properties under an option agreement whereby El Dorado Water Corporation has been given a two-year option to purchase at a cost of \$50,000 the properties of Diamond Ridge Water Company. Applicant will endeavor to sell sufficient of its preferred stock to pay for the properties of the Diamond Ridge Water Company. The order herein will permit the use of the proceeds from the sale of the preferred stock herein authorized for such purpose only. Any other use of the proceeds must be authorized by the Commission in a supplemental order or orders.

I herewith submit the following form of order.

#### ORDER.

El Dorado Water Corporation having applied to the Railroad Commission for permission to issue \$50,000 of preferred capital stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order and that this application should be granted as herein provided, therefore,

*It is hereby ordered*, that El Dorado Water Corporation be and it is hereby authorized to issue and sell, for cash, at a price to net applicant not less than \$90 per share, 550 shares of its preferred capital stock and use the proceeds to pay the purchase price of the properties of the Diamond Ridge Water Company referred to in this application, or for such other purposes as the Railroad Commission may authorize by a supplemental order or orders.

The authority herein granted is subject to further conditions as follows:

1. El Dorado Water Corporation shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition

of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will become effective on the date hereof but will apply only to such stock as may be issued, sold and delivered on or before December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.

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DECISION No. 11983.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUE OF BONDS.

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Application No. 7646.

Decided April 27, 1923

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*B. D. Marx Greene*, for Applicant.

MARTIN, *Commissioner*.

FOURTH SUPPLEMENTAL ORDER.

El Dorado Water Corporation asks permission to issue and sell at 89 per cent of their face value and accrued interest, \$30,000 of first mortgage 6½ per cent bonds due May 1, 1947.

The Commission has heretofore, by Decision No. 10460, dated May 16, 1922, as amended, authorized applicant to issue \$200,000 of its first mortgage bonds to refund indebtedness and to pay the cost of building its Webber Creek dam, reservoir, ditches, flumes and pipe lines appurtenant thereto. The cost of acquiring and constructing the Webber Creek dam, reservoir and appurtenances will, according to the testimony of R. W. Hawley, applicant's chief engineer and general manager, be about \$25,000 more than originally estimated. This increased cost is due to inclement weather and other reasons, which at times necessitated stopping construction work.

Applicant has an option to purchase the properties of the Diamond Ridge Water Company. Under this option, it is required to pay July 1, 1923, the sum of \$4,000. It asks permission to use proceeds from the sale of bonds to meet this payment.

El Dorado Water Corporation having applied to the Railroad Commission for permission to issue \$30,000 of bonds, a public hearing

having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that El Dorado Water Corporation be and it is hereby authorized to issue and sell at not less than 89 per cent of their face value and accrued interest \$30,000 of first mortgage 6½ per cent bonds and use the proceeds to pay in part the cost of its Webber Creek dam, reservoir, ditches, flumes, pipe lines and appurtenances thereto, and to pay Diamond Ridge Water Company \$4,000 due July 1, 1923.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$30 and will expire on October 1, 1923.

*It is hereby further ordered*, that the time within which El Dorado Water Corporation may issue, sell and deliver the bonds authorized by Decision No. 10460, dated May 16, 1922, as amended, be and it is hereby extended to October 1, 1923.

The foregoing fourth supplemental order is hereby approved and ordered filed as the fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.



## DECISION No. 11985.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND  
TERMINAL RAILWAYS, A CORPORATION, FOR PERMISSION TO  
CONSTRUCT, LAY DOWN AND MAINTAIN A SPUR TRACK ACROSS  
TWENTY-SECOND AND MYRTLE STREETS AT GRADE IN THE CITY  
OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

Application No. 8741.

Decided April 27, 1923.

SPUR TRACK—CROSSING STREET AT GRADE—PARKING OF VEHICLES IS A MATTER  
OF MUNICIPAL JURISDICTION.—The duty of the Commission in matters of this  
sort is primarily to prohibit the construction of any grade crossing concern-  
ing which the advantage of public convenience and necessity to be served does  
not exceed the disadvantage that would accrue by virtue of the public hazard  
created. Permit granted.

*A. L. Whittle and G. H. Harris, for Applicant.*

*Leon Gray, City Attorney, for City of Oakland.*

*Geo. R. Chambers and S. C. Giles, for Gladding, McBean and Company.*

*W. H. Arps, Protestant.*

By THE COMMISSION.

## OPINION.

This is an application by the San Francisco-Oakland Terminal Rail-  
ways for permission to construct a spur track at grade across a portion  
of Twenty-second street and at grade across Myrtle street in the city of  
Oakland.

A public hearing was held on this application before Examiner Sat-  
terwhite, in San Francisco, March 30, 1923.

The spur track for which it is sought to obtain authority in this  
proceeding is desired for the purpose of giving industrial track  
service to a distributing plant of Gladding, McBean and Company.  
This company is engaged in the production and sale of tile, brick, terra  
cotta and various other clay products, the manufacturing plant for  
which is located at Lincoln near Sacramento. The industry has  
recently purchased property fronting on Twenty-second street in  
Oakland, extending between Market and Myrtle streets, for the pur-  
pose of constructing offices and storage facilities for such portions of  
their products as they may need to distribute in Oakland and adjacent  
communities in less than carload lots, it being their practice to deliver  
the carload shipments direct to the consumer without handling through  
their storage yards. The evidence shows that this company has its  
present warehouse in Oakland at Grove and Jones streets, but that  
the facilities at this point have become too small for the business now  
handled, and this fact together with the need of spur track service  
has caused the company to purchase the Twenty-second street property  
above referred to.

It appears that the city of Oakland considers this an industrial district and does not oppose the construction of an industrial spur in the location applied for in this proceeding. Applicant filed as Exhibit "A" a certified copy of a permit (Resolution 25823 NS) of the city of Oakland granting permission to construct the track in question in the city streets. The Oakland Chamber of Commerce took the position that the best interests of the city of Oakland required the development of industry in this district and indicated that the granting of this application would serve the public convenience and necessity to that extent.

A nearby property owner, however, protests against the granting of this application and bases his protest on the ground that the construction of this spur would injure his property located on the northwest corner of Twenty-second and Myrtle streets on which he proposes to construct four flats. The protestant further urges that the construction of the proposed spur in the location shown in the application would reduce the space available for parking of automobiles in front of his property. At the hearing the protestant stated that he did not believe that the construction of the spur at the grade would create an unusual hazard to the traveling public providing the applicant operated no cars over the track which were not attached to a locomotive or motor but applicant showed that the provision of such a condition in the order granting the application would not be an undue hardship upon the applicant.

The matter of parking is a municipal affair, to be settled between the protestant and the city of Oakland and is not a matter in which this Commission is involved. The duty of the Commission in matters of this sort is primarily to prohibit the construction of any grade crossing concerning which the advantage of the public convenience and necessity to be served does not exceed the disadvantage that would accrue by virtue of the public hazard that would be created.

The evidence in this case clearly indicated that there will be a relatively small public hazard created by the construction of the proposed crossing, while, on the other hand, the public convenience and necessity to be served by it is substantial. Under these circumstances there appears to be only one course justified, namely, the granting of the application.

#### ORDER.

San Francisco-Oakland Terminal Railways, a corporation, having made application for permission to construct a spur track at grade across a portion of Twenty-second street and across Myrtle street in the city of Oakland, county of Alameda, State of California, a public

hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

It is hereby found as a fact, that public convenience and necessity require the establishment of a public crossing at grade at the point hereinafter indicated; therefore,

*It is hereby ordered*, that permission be and it is hereby granted San Francisco-Oakland Terminal Railways to construct a spur track at grade across a portion of Twenty-second street and at grade across Myrtle street in the location described as follows:

Beginning at a point on the center line of the northerly track on Twenty-second street, 50 (plus) feet westerly from the westerly property line of Myrtle street; thence easterly and northerly on a 30-degree curve to the left 100 feet (plus); thence on a line tangent to said curve 37 feet; thence on a 30-degree curve to the right 100 feet (plus); thence on a line tangent to last named curve 82 feet (plus) to a point which is 60 feet (plus) westerly from the westerly property line of Market street. A total distance of 319 feet (plus);

All of the above as shown by the map (B-196) marked Exhibit "B" and attached to the application, said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class conditions for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the top of rails flush with the pavement and with grades of approach not exceeding one (1) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) No car shall be operated over said crossings unless said car shall be coupled to the train, engine or motor propelling the same and no train, engine, motor or car shall be operated over said crossings unless said train, engine, motor or car shall be under full control and unless the traffic on the highways be protected by a member of the train crew or other competent employee acting as flagman.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to

revoke its permission if, in its judgment the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.

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DECISION No. 11986.

IN THE MATTER OF THE APPLICATION OF SHAW WAREHOUSE AND FORWARDING COMPANY, A CORPORATION, TO ISSUE FIFTY SHARES OF ITS COMMON STOCK.

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Application No. 8854.

Decided April 27, 1923.

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*Archer Bowden*, for Applicant.

*SEAVEY, Commissioner.*

OPINION.

Shaw Warehouse and Forwarding Company asks permission to issue fifty shares (\$5,000 par value) of its common stock of the par value of \$100 per share. Applicant intends to issue \$4,000 of its stock to J. G. Shaw, Roy Thrift, Minnie A. Shaw, Victoria A. Thrift and A. A. Thrift in exchange for their respective interests in an existing warehouse and storage business at San Jose; and to issue and sell \$1,000 of stock for cash.

Applicant alleges the present worth of its business to be \$6,600. In arriving at this amount, applicant placed a cash value of \$5,000 on warehousing contracts, a value of \$2,000 on a lease, a value of \$2,000 on warehouse and office equipment, and reports accounts receivable of \$600 and cash on hand at \$250. Its accounts payable are reported at \$1,250 and "future liabilities" at \$2,000. The payment of the indebtedness, \$3,250, will be assumed by applicant.

We do not agree with the values which have been assigned to warehouse contracts and the lease. Inasmuch as applicant will assume the payment of \$3,250 of indebtedness, only \$1,000 of stock will be authorized to be issued in exchange for the interest which the persons named in the first paragraph of this opinion may have in the business, to which reference has been made. Applicant will be authorized to issue and sell, at not less than par, \$1,000 of stock and use the proceeds for working capital. Upon supplemental application, the Commission may authorize the issue of additional stock to pay indebtedness assumed by applicant.

I herewith submit the following form of order:

**ORDER.**

Shaw Warehouse and Forwarding Company having applied to the Railroad Commission for permission to issue \$5,000 of stock and assume the payment of indebtedness, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be authorized to issue at this time only \$2,000 of stock and assume the payment of indebtedness referred to in this application and that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant;

*It is hereby ordered*, that Shaw Warehouse and Forwarding Company be and it is hereby authorized to issue for the purposes indicated in this order and subject to the terms and conditions hereof, \$2,000 of common capital stock and assume the payment of not exceeding \$3,250 of indebtedness referred to in this application.

The authority herein granted is subject to the following conditions:

1. Stock in the amount of \$1,000 may be issued in exchange for the interest which J. G. Shaw, Roy Thrift, Minnie A. Shaw, Victoria A. Thrift and A. A. Thrift may have in the warehouse and storage properties and business referred to in this application.

2. Stock in the amount of \$1,000 shall be sold by applicant, for cash, at not less than par and the proceeds used for working capital.

3. Shaw Warehouse and Forwarding Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order

4. The authority herein granted will become effective upon the date hereof and will expire on November 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.

## DECISION No. 11989.

IN THE MATTER OF THE APPLICATION OF R. P. McGARVIN AND A. F. SPARKS, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF INDEPENDENT STAGES, FOR LEAVE TO SELL AND TRANSFER, AND PICKWICK STAGES, INCORPORATED, A CORPORATION, FOR LEAVE TO PURCHASE AND OPERATE THAT CERTAIN AUTOMOBILE STAGE FRANCHISE HERETOFORE AND NOW OWNED AND OPERATED BY SAID McGARVIN AND SPARKS BETWEEN THE CITIES OF ESCONDIDO AND SAN DIEGO, CALIFORNIA, AND ALL INTERMEDIATE POINTS, AND ALSO THAT CERTAIN FRANCHISE AND CERTIFICATE RIGHT FOR THE OPERATION OF AUTOMOBILE STAGES IN THE TRANSPORTATION OF PASSENGERS BETWEEN RAMONA AND DEL MAR, CALIFORNIA, AND ALL INTERMEDIATE POINTS VIA ESCONDIDO.

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Application No. 8794.

Decided April 27, 1923.

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BY THE COMMISSION.**ORDER.**

R. P. McGarvin and A. F. Sparks, copartners doing business under the fictitious name and style of Independent Stages, have filed a joint application with the Pickwick Stages, Incorporated, a corporation, in which they petition for an order authorizing the copartners to sell and the corporation to purchase certain automobile stage lines at present operated by the copartnership.

The operative rights herein proposed to be transferred were established under the following formal proceedings:

Under Decision No. 8419 in Application No. 6308, dated December 8, 1920, a copartnership consisting of McGarvin and Sparks was authorized to acquire by transfer an operative right heretofore held by Bridgham and McGarvin, authorizing the operation of an automobile passenger stage line between San Diego and Escondido, California. Under Decision No. 9256, said copartners were authorized to operate said line between San Diego and Poway Corners via Miramar along the paved highway known as Mission Road. Said order, however, required in accordance with stipulation entered into by applicant, that no operation would be given to or from Camp Kearny, nor would stages pick up or discharge passengers at points near the camp off the highway. Under Decision No. 9235 in Application No. 6246, dated July 15, 1921, McGarvin and Sparks, copartners, were granted a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between Ramona and Del Mar, serving as intermediate points the communities of San Pasqual, Escondido and Bernardo; said certificate provided that no authority was thereby conveyed for the carriage of local passengers over the portion of said route at the time served by the Pickwick Stages, Incorporated.

The consideration to be paid for the property herein proposed to be transferred includes, both a certain amount of stock of the Pickwick Stages, Incorporated, together with stated cash consideration payable individually to each of the two copartners. The property to be transferred includes, in addition to the operative rights, two Pierce Arrow automobile stages.

The proposed purchaser, Pickwick Stages, Incorporated, a corporation, is at the present time engaged in the operation of automotive stage service over territory roughly comprising the termini of Los Angeles, San Diego, and El Centro and it asks in addition to the order authorizing the transfer of the operative rights hereinabove mentioned, for an order also authorizing it to operate such stage lines so acquired in conjunction with and as a part of its automobile transportation service covering both through and local service. The latter portion of the application can not be considered in this proceeding, as such an authorization requires consideration of operations far more extensive than the operative rights involved in the present transfer. The application insofar as the transfer is concerned will be granted. Permission to operate through and local service over said operative rights in connection with the entire system of the Pickwick Stages, Incorporated, will be denied without prejudice.

*It is hereby ordered*, that the above entitled application be and the same hereby is granted subject to the following conditions:

1. Pickwick Stages, Incorporated, a corporation, through its president or general manager shall file a written acceptance of the certificates herein authorized to be transferred, which written acceptance shall contain a statement to the effect that the service operated under said certificates will be operated independent of any present operation now conducted by Pickwick Stages, Incorporated, until such time as said Pickwick Stages, Incorporated, shall have obtained from the Railroad Commission an order authorizing the operation of through or local service in connection with all individual certificates now held by it; such written acceptance shall further contain a statement to the effect that in authorizing the transfer herein applied for, the Commission in no way authorizes the purchaser to operate a greater service than that contemplated under the original certificates.

2. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate-fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

3. Applicants McGarvin and Sparks, copartners, shall immediately cancel all tariff of rates and time schedules now on file covering service, certificates for which are herein authorized to be transferred. Such

cancellation to be in accordance with the provisions of General Order No. 51 of the Railroad Commission.

4. Applicant Pickwick Stages, Incorporated, shall immediately file, in duplicate, tariff of rates and time schedules covering service, certificates for which are herein authorized to be transferred to it, or adopt as its own the tariff of rates and time schedules as heretofore filed by applicants McGarvin and Sparks. All tariff of rates and time schedules to be identical with those as filed by applicants McGarvin and Sparks.

5. The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

6. No vehicle may be operated by applicant Pickwick Stages, Incorporated, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

*It is hereby further ordered*, that the above entitled application in all other respects be and the same hereby is denied.

Dated at San Francisco, California, this twenty-seventh day of April, 1923.

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DECISION No. 12000.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISE GRANTED TO APPLICANT BY ORDINANCE No. 189 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA.

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Application No. 8782.

Decided May 2, 1923.

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C. P. Cutton by R. W. Duval, for Applicant.

SEAVEY, Commissioner.

OPINION.

Pacific Gas and Electric Company asks the Railroad Commission to declare that public convenience and necessity require the exercise by applicant of the rights and privileges granted by Ordinance No. 189, passed December 6, 1921, by the board of supervisors of Sacramento County, State of California. A hearing was held on April 12, 1923, and the matter submitted.

A copy of this ordinance has been filed in this proceeding. In general, it grants to Pacific Gas and Electric Company, its successors and



assigns, for a term of fifty (50) years, the right to lay and maintain gas pipes, mains and conduits in the highways, streets and alleys in the county of Sacramento, and to use the same for the purpose of conveying, distributing and supplying gas to the public, and particularly to the inhabitants of the county adjacent to, or in the vicinity of the city of Sacramento for light, heat, power and all lawful purposes, all rights being subject to the terms and conditions set forth in the ordinance.

Among other things, the ordinance requires that applicant, its successors and assigns, pay during the life of the franchise to the said county of Sacramento an amount equal to 2 per cent of the gross annual receipts arising from the use, operation or possession thereof, provided that no payments need be made during the first five (5) years succeeding the date on which the franchise was granted.

Evidence shows that no other utility is at present serving gas in this territory, and that the applicant has adequate facilities for so doing. Applicant reports the cost of securing this franchise at one hundred dollars (\$100), and has filed a stipulation agreeing that neither it nor its successors nor assigns will ever claim before the Railroad Commission of the State of California, or any court or other public body having jurisdiction, a value for this franchise in excess of one hundred dollars (\$100).

I hereby submit the following form of order:

#### ORDER.

Pacific Gas and Electric Company having asked the Railroad Commission to declare that public convenience and necessity require applicant, its successors and assigns to exercise the rights and privileges granted to it by the county of Sacramento under Ordinance No. 189, passed December 6, 1921, by the board of supervisors of said county of Sacramento, public hearing having been held and it appearing to the Railroad Commission that public convenience and necessity require the exercise by applicant, its successors and assigns of the rights and privileges referred to in said ordinance; therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require the exercise by Pacific Gas and Electric Company, its successors and assigns of the rights and privileges conferred upon it by Ordinance No. 189, passed on December 6, 1921, by the board of supervisors of Sacramento County.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission in the State of California.

Dated at San Francisco, this second day of May, 1923.

## DECISION No. 12001.

IN THE MATTER OF THE APPLICATION OF COAST LINE STAGES,  
INCORPORATED, FOR A PERMIT TO ISSUE STOCK.

Application No. 8870.

Decided May 2, 1923.

W. W. Allen, for Applicant.

BRUNDIGE, Commissioner.

## OPINION.

Coast Line Stages, Incorporated, asks permission to issue \$25,000 of common capital stock.

On January 10, 1920, W. W. Allen and J. Olinsky organized a copartnership under the name of Coast Line Freight and Stage Company. The partnership has, since the date of its organization, been engaged in operating a stage line between Fort Bragg, Mendocino County, and Cazadero, Sonoma County. Each of the copartners is the owner of a one-half interest in the copartnership properties and business. It is the intention of the copartners to transfer their interests in the copartnership properties and business to the Coast Line Stages, incorporated. Of the \$25,000 of stock, \$12,400 will be issued to W. W. Allen; \$12,400 to J. Olinsky; and \$200 to W. H. Schultz.

As of December 31, 1922, the assets and liabilities of the copartnership are reported as follows:

<i>Assets.</i>	
Automobile equipment -----	\$17,200 00
Wagons, harness and equipment -----	600 00
Live stock -----	800 00
Garage equipment at Fort Bragg, California -----	3,500 00
Real estate and improvements -----	800 00
Stock of auto supplies, parts, etc. -----	1,500 00
Accounts receivable (good) -----	1,022 74
Cash -----	73 72

Total -----	\$25,496 46
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<i>Liabilities.</i>	
Notes payable:	
The Coast National Bank of Fort Bragg -----	\$5,000 00
Reo Motor Car Company -----	1,566 00
Accounts payable (current) -----	991 34
Total -----	\$7,557 34

It is of record that the assets reported do not include all of the properties that are to be transferred to the corporation and that since December 31, 1922, several thousand dollars have been expended for additional equipment, materials and supplies.

Because of additional expenditures for equipment, materials and supplies, I believe that applicant may properly be permitted to issue \$25,000 of stock and assume the payment of indebtedness in the amount of \$7,557.34. In this connection it might be mentioned that the original cost of the auto and stage equipment which will be transferred to the corporation is reported at \$45,400.

I herewith submit the following form of order:

**ORDER.**

Coast Line Stages, Incorporated, having applied to the Railroad Commission for permission to issue \$25,000 of stock and to assume the payment of indebtedness, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that this application should be granted as herein provided; therefore

*It is hereby ordered*, that Coast Line Stages, Incorporated, be and it is hereby authorized to issue at not less than par, \$25,000 of stock and assume the payment of not exceeding \$7,557.34 of indebtedness, all for the purpose of acquiring all the properties owned by the Coast Line Freight and Stage Company, together with \$200 in cash, said cash to be obtained from the sale of two shares of stock to W. J. Schultz, or his assigns.

The authority herein granted is subject to further conditions as follows:

1. Coast Line Stages, Incorporated, shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof and will expire on September 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this second day of May, 1923.

## DECISION No. 12003.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR AN ORDER PERMITTING IT TO ISSUE CERTAIN SHARES OF ITS CORPORATE STOCK.

Application No. 8786.

Decided May 2, 1923.

*H. W. Kidd*, for Applicant.

By THE COMMISSION.

## OPINION.

Motor Transit Company in this amended application asks permission to issue \$759,203 par value of common capital stock. It intends to issue \$659,203 to White Auto Company and O. R. Fuller at not less than par to secure funds to pay indebtedness, and issue \$110,000 from time to time at not less than \$90 to acquire additional equipment.

A public hearing was held in this application before Examiner Handford at Los Angeles.

Motor Transit Company has, according to its Exhibit No. 2 filed in this proceeding, an authorized capital stock issue of \$1,500,000 divided into 1,500,000 shares of the par value of \$1 each. Of this stock, \$317,182 has been issued and is outstanding. Of the outstanding stock, O. R. Fuller is said to own 211,454 shares, S. Cahn 105,727 shares and Ione Fuller one share. Applicant has no funded debt. As of December 31, 1922, its notes payable amounted to \$200,480.79 and its accounts payable to \$471,729.49. Of the notes and accounts payable \$484,533.34 is due the White Auto Company. This company and O. R. Fuller have agreed to purchase at par \$659,203 of applicant's stock, if authorized by the Commission, to enable applicant to pay its indebtedness.

In its amended Exhibit No. 2, attached to the application, applicant as of December 31, 1922, reports capital investment of \$976,384.55. This amount is made up of the following items:

## Fixed capital:

Intangibles -----	\$3,618 00	
Land -----		
Buildings -----		
Improvements on leased property -----		
Machinery and tools -----	34,234 74	
Revenue passenger cars -----	532,339 54	
Revenue combination freight and passenger cars -----	46,229 20	
Revenue freight cars -----		
Express, baggage and mail cars -----	10,540 33	
Service cars -----	10,183 27	
Telephone and telegraph lines -----		
Floating equipment -----		
Furniture -----	16,093 46	
Miscellaneous tangible capital -----	449 38	
Undistributed construction expenses -----	84,096 93	
Total fixed capital -----		\$737,784 85
Materials and supplies—Inventory -----	\$128,599 70	
Working cash capital -----	110,000 00	
		238,599 70
Grand total -----		<u>\$976,384 55</u>

From the \$976,384.55 applicant deducts the outstanding stock, \$371,182, leaving a balance of \$605,202.55. The investment which applicant seeks to capitalize includes nothing for land, buildings or improvements on leased premises. It is of record that applicant has an investment of \$124,361.21 in these items of properties, which properties may be transferred to a terminal company.

In its assets, as of December 31, 1922, reported in Exhibit No. 2, applicant includes \$128,559.70 for materials and supplies and \$110,000 for working capital, a total of \$238,559.70. The working capital includes cash on hand and notes and accounts receivable. Its accounts receivable amount to \$108,151.44. A substantial part of the accounts receivable represents deferred settlements from the sales in the body shop of applicant. For the purpose of this proceeding, we will assume an investment of \$175,000 in materials and supplies and cash working capital. It is, of course, understood that the recognition of such an amount as a basis for the issue of stock does not mean that the Commission will recognize such amount for materials and supplies and working cash capital in a rate proceeding.

Applicant reports that it operated during 1922 the following passenger car equipment:

Seven 8-passenger, twenty-eight 11-passenger, ten 14-passenger, six 18-passenger, thirty-one 21-passenger and twelve 25-passenger cars.

It further reports that it operated combination passenger and freight cars as follows:

Twelve  $\frac{3}{4}$ -ton 11-passenger, two 2-ton 18-passenger.

Its other equipment consists of two  $\frac{3}{4}$ -ton express, baggage and mail cars; three  $\frac{3}{4}$ -ton service cars; one Ford service car and two shop cars. It reports that during 1922 it carried 2,139,449 passengers and 2,406 tons of freight.

In its annual report applicant reports revenues, expenses and other disbursements for 1922 as follows:

Transportation revenue -----	\$1,461,436 25
Transportation expenses -----	1,469,667 98
Net operating deficit -----	\$8,231 73
Add—	
Revenue from other operations -----	\$182,150 94
Miscellaneous income -----	2,671 63
Net income -----	\$176,590 84
Deductions—	
Interest -----	\$29,604 02
Expense other operations -----	171,444 18
Total deductions -----	201,048 20
Loss for year -----	<u>\$24,457 36</u>

The operating expenses include \$155,437.09 for depreciation. Referring to the depreciation allowance, F. D. Howell, applicant's vice president, testified that:

\* \* \* the company has been carrying depreciation on the basis of 2 per cent a month on equipment or rolling stock, and on investigation for the purpose of this hearing it was found that on that basis cars that were comparatively better than 50 per cent efficient, that were operating every day in the week would be carried on the books as practically out of service, so I had a survey of the equipment made by our shop superintendent and foreman and myself, and we decided that the equipment was actually on an average 75 per cent operating value, and that the depreciation reserve should—the accrued depreciation to date should—really equal about 25 per cent of the total value of the equipment rather than the amount set up on our books, so I have assumed, for the purpose of this hearing, a depreciation of 25 per cent, and the reserve for depreciation of that same amount equalling \$160,608 depreciation on furniture and fixtures, machinery and tools and so forth, as against some \$350,000, set up on our books at that time. The books have not been altered as yet to meet that condition, but instructions have been given to the auditing department to set up that depreciation as of the first of the year and carry that depreciation from then on on the basis of 1 per cent a month until a further survey can give us more data for an actual depreciation.

If applicant's records during 1922 had been kept as now directed by F. B. Howell, it would have included in operating expenses on account of depreciation \$77,718.54 instead of \$155,437.09, which would have resulted in a profit of \$53,361.18 instead of a loss of \$24,457.36.

Applicant asks permission to issue and sell at not less than 90 \$110,000 of its common capital stock and use the proceeds to acquire additional equipment. It is the intention of applicant to acquire only White Auto Company equipment. This equipment will consist of two types—touring car and central aisle cars. Five or six cars are needed immediately. It is believed by applicant's vice president that during the year it will have to expend more than \$110,000 for additional equipment. In this connection, the Commission's attention is called to the fact that during 1922 applicant expended \$258,173.53 for equipment, during 1921 \$294,959.23 and during 1920 \$399,759.10.

#### ORDER.

Motor Transit Company having applied to the Railroad Commission for permission to issue \$769,203 par value of its common capital stock, a public hearing having been held and the Commission being of the opinion that Motor Transit Company should be authorized to issue \$705,603 par value of its common capital stock and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

*It is hereby ordered*, that Motor Transit Company be and it is hereby authorized to issue \$705,603 par value of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, \$595,603 shall be sold by applicant at par net and the proceeds used to pay indebtedness referred to in applicant's Exhibit No. 3.

2. Of the stock herein authorized to be issued, \$110,000 shall be sold by applicant at not less than 90 net and the proceeds used to acquire additional equipment.

3. Applicant shall file with the Commission monthly statements containing a complete description of all equipment purchased or constructed through the issue and sale of the \$110,000 of stock referred to in Condition "2" of this order, and the cost thereof.

4. Motor Transit Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted will become effective on the date hereof and will expire on December 15, 1923.

Dated at San Francisco, California, this second day of May, 1923.

## DECISION No. 12004.

IN THE MATTER OF INVESTIGATION ON COMMISSION'S OWN MOTION,  
OF REASONABLENESS OF THE RATES OF THE WESTERN WATER  
COMPANY.

Case No. 1743.

Decided May 2, 1923.

**WATER RATES—OPERATION EXPENSES.**—Federal Income Tax should not be included in operating expenses. Rates ordered reduced, but reasonable allowance for hazard allowed. Depreciation annuity. Investigation to be made by Commission of methods used in determining depreciation annuity. Company ordered to file with Commission on or before November 30, 1923, revised estimates of probable age and life of its properties, and of accrued depreciation.

*Chickering and Gregory*, by *Allen L. Chickering* and *W. E. Fox*, for Western Water Company.

*MARTIN*, Commissioner.

## OPINION.

This is an investigation on the Commission's own motion of the reasonableness of the rates of the Western Water Company, a public utility supplying water for domestic and industrial use in and in the vicinity of Taft, Kern County.

Public hearings were held in Taft and in San Francisco, and all interested parties were duly notified and given an opportunity to be present and be heard. None of the utility's consumers were present to protest the prevailing rates, which are unusually high when compared with those in effect in other localities.

This utility has been before the Commission in rate proceedings on two previous occasions, first in 1915 and again in 1919.

Western Water Company supplies approximately 2100 domestic consumers in the city of Taft and about 290 oil companies and 170 domestic consumers in the oil fields in the vicinity. The water system consists of approximately eighty miles of pipe ranging from  $\frac{3}{4}$ -inch to 16 inches in diameter. Storage is provided by means of several steel tanks and small reservoirs. Six pumping plants are used to develop and distribute the water supply, the main pumping plants working against pressures of from 400 to 530 pounds per square inch, which are abnormally high.

The present rates charged for water consumed are as follows:

*Domestic use in Taft and South Taft:*

Monthly minimum charge.....	\$1 50
First 500 cubic feet, per 100 cubic feet.....	90
Next 2000 cubic feet, per 100 cubic feet.....	75
Over 2500 cubic feet, per 100 cubic feet.....	60

*Consumers outside city of Taft and town of South Taft:*

## Monthly minimum charges—

Domestic consumers on wholesale lines.....	\$2 50
Industrial consumers .....	10 00



## Meter rates—

0 to 30,000 barrels, per barrel-----	\$0 03
Next 70,000 barrels, per barrel -----	025
Over 100,000 barrels, per barrel -----	015

*Provided*, that the net rate from any consumer shall in no instance fall below an average of \$0.0185 per barrel for all the water consumed by it in any one month.

*Fire service in the city of Taft:*

For all water supplied for fire purposes, \$0.03 per barrel, or \$0.536 per 100 cubic feet.

The minimum charge for fire purposes shall be \$1 per month for each hydrant or connection.

Chester H. Loveland, consulting engineer, presented a report on behalf of Western Water Company which recommended the sum of \$1,618,706 as a reasonable rate base for the purpose of this proceeding. This amount is made up as follows:

Capital installed as of December 31, 1922-----	\$1,282,041 00
Working capital -----	46,902 00
Interest during construction on capital installed from 1915 to 1923-----	20,737 00
Proposed additions to plant during 1923-----	269,026 00
Total -----	\$1,618,706 00

M. E. Ready, one of the Commission's hydraulic engineers, presented a report which showed an estimate of original cost of the system, as of December 31, 1922, amounting to \$1,234,790. This sum did not include any allowances for working capital, for interest during construction on plant installed from 1915 to 1923, or for proposed additions to capital during 1923. After making a reasonable allowance for these items it appears that the sum of \$1,437,000 is a reasonable rate base for the purpose of this proceeding.

The recommendations of Mr. Loveland and Mr. Ready for reasonable maintenance and operation expense and for depreciation annuity are as follows:

	C. H. Loveland	M. E. Ready
Maintenance and operation expense-----	\$313,409 00	\$272,525 00
Depreciation annuity -----	77,163 00	64,169 00

Mr. Loveland's estimate of reasonable maintenance and operation expense includes an item of \$23,130 for federal income tax which is not included in Mr. Ready's estimate. It appears at this time from a careful study of court decisions and the act providing for this tax that it should not be included in operating expenses. Aside from the matter of income tax the principle differences between the recommendations of Mr. Loveland and Mr. Ready occur in the estimates for pumping and transmission and distribution expenses. It is claimed by the utility that the soil in the territory served is very destructive to pipe and that the water is of such quality that deposits

on the inside of the pipe occur to such a degree that the diameter is greatly reduced and frequent cleaning is necessary.

All factors affecting maintenance and operating expense and a proper allowance for depreciation annuity have been carefully considered and it appears that the following are reasonable annual allowances for these items for the immediate future:

Maintenance and operating expense.....	\$280,000 00
Depreciation annuity .....	72,000 00

Total operating revenues from the sale of water and the total quantities delivered during the years 1919-1922, inclusive, are as follows:

	1919	1920	1921	1922
Operating revenues .....	\$345,048	\$446,576	\$505,957	\$629,854
Per cent increase over 1919.....		29.3	46.6	79.6
Barrels of water delivered.....	13,491,473	17,198,164	19,379,517	24,912,323
Per cent increase over 1919.....		27.4	43.6	84.3

It was urged by Western Water Company that the business in which it is engaged is unusually hazardous in that there is no certainty of continued prosperity and that the future of the oil fields, which comprise the territory served, is exceedingly uncertain. The company claims that it is entitled to a higher rate of return upon the investment than is usually allowed utilities operating under more stable conditions. The claim is also made that the revenues received from the sale of water in the year 1922 are greatly in excess of normal and that future revenues will show a material decrease owing to the discontinuance of water use by certain large consumers and to other causes which vitally affect continued extensive operations in the oil fields.

There is merit in some of these claims made by the utility, and in the determination of reasonable rates careful consideration will be given to all material factors.

A study of the evidence and briefs submitted in this matter together with the peculiar conditions under which this utility operates leads to the conclusion that a reduction in rates should be made. The schedule established in the accompanying order is designed to yield revenues which will enable the utility to provide for reasonable maintenance and operating expense, depreciation annuity, and what under the circumstances, and making reasonable allowance for hazard, is a fair return upon its investment.

A careful consideration of the peculiar conditions under which this utility operates and the hazardous character of the business, due to the possible short life of the oil fields and to other vital factors, indicates the desirability of further study of the matter of amortization of the plant of the utility. In order that the matter can be intelli-

gently considered, further investigation of the methods used in determining depreciation annuities appears advisable and the accompanying order will provide that the utility submit revised estimates of ages, probable lives and accrued depreciation of the various structures comprising the system. At the conclusion of the investigation the Commission will make such further order as appears just and reasonable.

#### ORDER.

The Railroad Commission of the State of California having instituted an investigation on its own motion into the reasonableness of the rates of the Western Water Company, public hearings having been held thereon, briefs having been filed, and the matter having been submitted,

It is hereby found as a fact that the rates charged by the Western Water Company for water delivered in the city of Taft and adjacent territory, in so far as they differ from the rates herein established, are unjust and unreasonable and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion,

*It is hereby ordered*, that the Western Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers in and in the vicinity of the city of Taft, such rates to be effective for all service rendered subsequent to May 1, 1923:

#### *Monthly Minimum Charges:*

Domestic consumers in Taft and South Taft (retail lines)-----	\$1 50
Domestic consumers on wholesale lines-----	2 50
Industrial consumers on wholesale lines-----	10 00

#### *Monthly meter rates—Domestic service:*

First 500 cubic feet, per 100 cubic feet-----	\$0 60
Over 500 cubic feet, per 100 cubic feet-----	50

#### *Monthly meter rates—Industrial service:*

First 30,000 barrels, per barrel-----	\$0 0275
Next 70,000 barrels, per barrel-----	020
Over 100,000 barrels, per barrel-----	015

#### *Rates for fire service in the city of Taft:*

For all water supplied for fire purposes, \$0.0275 per barrel, or \$0.49 per 100 cubic feet.  
The minimum monthly charge for fire purposes shall be \$1 for each hydrant or connection.

*It is hereby further ordered*, that Western Water Company be and the same is hereby directed to file with this Commission on or before November 30, 1923, revised estimates of ages, probable lives, and the

accrued depreciation of the various structures comprising this water system.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of May, 1923.

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DECISION No. 12005.

SALVATORE RIELLA, MARY J. MASSA, MICHAEL RATTO, MRS. J. A. HAVERSTICK, ADOLPH F. SPINNETTI, ANGELO BERNERO, A. A. MASSA, G. B. BUSCAGLIA, A. FORSHEY, DEVI BADARACCO, A. D. MASSA, MRS. MARY GUISTO, MRS. TOM MELLO, V. MONDANI, J. S. GUISTO, MRS. STEVE BIGNOTTI, JOHN STROHM,

vs.

CHICHIZOLA ESTATE COMPANY, A CORPORATION.

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Case No. 1881.

Decided May 2, 1923.

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PRIVATE WATER SYSTEM—REQUEST TO ABANDON SERVICE—RATES AND SERVICE.—

Chichizola Estate Company held to be a public utility as to water service rendered by it at Jackson Gate. Company ordered to continue service of water to present consumers, and to file revised schedule of rates and rules of service.

*T. G. Negrich*, for Complainants.

*Wm. G. Snyder*, for Chichizola Estate Company.

*MARTIN*, Commissioner.

OPINION.

This proceeding was initiated by a complaint on the part of Salvatore Riella and sixteen other persons against the Chichizola Estate Company, a corporation, alleging that the defendant is the owner of a water system at Jackson Gate, Jackson, Amador County; that complainants or their predecessors have for approximately thirty-five years been supplied with water from the said system; that defendant on or about March 1, 1923, served a written notice that said water service would be discontinued; that complainants have no other supply of water except that certain of them own wells which they allege to be inadequate for a proper water supply; that defendant, Chichizola Estate Company, is a public utility; and that they would suffer loss and damage if this water service were discontinued. They ask that the Commission investigate the matter, and, if defendant be found to be a public utility, that the Commission issue such order as may be proper in the premises.

Defendant filed its answer alleging that it is not a public service corporation and not subject to the jurisdiction of the Railroad Commission; that it owns certain real estate and certain store premises at said Jackson Gate, for the service of which premises this system was

primarily installed; that water was merely furnished to complainants or their predecessors as an accommodation; that water has not been furnished to all applicants desiring service; that defendant has ceased to conduct a merchandise business at Jackson Gate; that the water system requires special attention and cannot be operated economically as a separate unit; that defendant had offered to sell the system to complainants for the sum of \$1,750 and that it is now willing to sell the same for \$2,000, which it alleges to be "much below the actual value of said water system," the total value of which it declares to be "in excess of \$3,500." Defendant further alleges that water can be supplied by the Jackson Water Works, a public utility serving the city of Jackson.

A public hearing upon this matter was held at Jackson on April 23, 1923. The complainants there adduced a showing that the water system in question was installed more than thirty years ago by one Victor Chichizola; that the same is now owned by defendant; that approximately four acres, owned by defendant, are supplied with water from this system and that the system also has connections for twenty-three other consumers, though only eighteen are now actually supplied with water. A portion of defendant's pipes is laid in the public highway and fifteen of the services to outside consumers are metered.

T. A. Chichizola, president of the defendant company, testified that the rates charged at the nonmetered services are \$2. per month save in one instance where \$1.25 is charged, and that at the metered services the rates are \$2 per month minimum for 4000 cubic feet and 5 cents for each additional 100 cubic feet.

It appears the defendant pays 25 cents an inch for this water, which is taken from a ditch of the Pacific Gas and Electric Company and is conveyed through 3505 feet of pipe to a small regulating reservoir maintained by the defendant. From this regulating reservoir it is distributed to consumers through 3500 feet of mains of varying sizes.

While it was stated that at one time service was refused to certain persons who desired the same, nevertheless it was testified by the company's president that these persons had later been served and that no one who requested service and whose property was located within the area conveniently reached by the system had finally been refused service. The Chichizola Estate Company owns two residences, a barn, a large store building, a blacksmith shop, an employee's house, and, as stated above, consumes water upon approximately four acres of gardens and lawns. It was frankly admitted by the president that if this present service were abandoned the defendant company would have to install some other water system to serve its properties and it was declared that the company proposes in case of such abandonment

to install at an approximate cost of \$5,000 a new system connecting with the Pacific Gas and Electric Company's ditch. He stated that it would not be satisfactory to defendant to utilize wells, because the ditch water is preferable to the well water and because adequate fire protection could not be secured if wells were used. Both T. A. Chichizola and Julius Chichizola, secretary of defendant corporation, stated that the real desire on the part of the company was to be free from the duty of serving water to other consumers.

William Stava, one of the Railroad Commission's hydraulic engineers, testified that he had made an examination of the system. He presented a report on the operating conditions, together with the expenses, revenues and estimated cost of the system. Mr. Stava testified that this system could not be economically operated as an independent unit; that it needs little attention and would not require the whole time of one man and that it could be operated in connection with some other business; also that it is more economical to continue to take water from the present source than to install a connection to the Jackson Water Works. In his report he estimated the original investment to be \$3,210, making no allowance for land, since in all cases save one, right of way was granted without compensation. The present value of the system, based on its present condition, was found to be \$1,508. Annual operating expenses were estimated to be \$341, with replacement annuity of \$53; these last two items, together with a return upon \$3,210 at 8 per cent, would amount to \$650, which sum is in excess of the estimated annual revenue from the property during the past three years, including a reasonable allowance for use of water by defendants.

Two main questions present themselves to the Commission in this case: First, is this water system a public utility? and second, if so, should it be granted permission to abandon the service which it has been rendering for many years? We are of the opinion with reference to the first question that the defendant, Chichizola Estate Company, does render public utility water service to these consumers. As stated previously, according to the testimony no person conveniently situated with reference to the system has been ultimately refused service, and service has been rendered to many people for several years and always for compensation, and probably until a very recent period at rates that were remunerative. Also, defendant's articles of incorporation give it the power of carrying on public utility business.

With reference to the second point, we are of the opinion that the defendant should not be allowed to abandon this service. Several of the complainants testified that, while they have wells, these are inadequate save for rather meager domestic use. There was no evidence that any well has been sunk in recent years. No other practicable source of supply was shown, and there can be no doubt but that a discontinuance

of water service upon the Chichizola system would result in considerable hardship to these consumers.

The Commission does not oppose any reasonable effort on the part of defendant company to discover a person or group of persons who will purchase this system and relieve the defendant of its obligations. Until such purchaser is found, however, it seems clear that the Commission can not justly allow this service to be discontinued.

The testimony shows that some adjustment should be made in the rates to increase the annual revenues to more nearly equal the estimated annual charges. The Commission, in the accompanying order, will establish a schedule of rates to apply to all consumers, including defendant, which is designed to accomplish this result.

The testimony also shows that defendant is a large user of water and that its services are not metered. It is recommended that all the large users, including defendant, be metered, that waste of water may be prevented, and that the charges be distributed equitably in accordance with actual use of water.

The following order is recommended:

#### ORDER.

Complaint having been made to the Railroad Commission that the Chichizola Estate Company, a corporation, owning and operating a system for the supply of water for domestic purposes at Jackson Gate, Jackson, Amador County, is about to discontinue such service, the matter having been heard and the Commission being fully advised in the premises:

It is hereby found as a fact that the Chichizola Estate Company, a corporation, is, as to the water service rendered by it at said Jackson Gate, a public utility, subject to the control and regulation by this Commission under the laws of this state.

It is hereby further found as a fact that the rates now charged by the Chichizola Estate Company, in so far as they differ from the rates herein established, are unjust and unreasonable rates for water delivered by defendant to consumers in Jackson Gate, Jackson, and vicinity.

And basing its order upon the foregoing findings of fact and upon the further statement of facts contained in the preceding opinion;

*It is hereby ordered*, that the said Chichizola Estate Company, a corporation, continue its present service of water to complainants herein and any other consumers which it may have held itself out to serve.

*It is hereby further ordered*, that Chichizola Estate Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following

schedule of rates to be charged for all water supplied to its consumers subsequent to May 31, 1923:

*Monthly Meter Rates:*

0 to 2000 cubic feet, per 100 cubic feet.....	\$0 10
Over 2000 cubic feet, per 100 cubic feet.....	05

*Monthly Minimum Meter Rate:*

For $\frac{3}{4}$ -inch by $\frac{1}{4}$ -inch meter.....	2 00
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*Monthly Flat Rates:*

The monthly flat rates as at present on file with this Commission shall remain unchanged.

*It is hereby further ordered*, that within thirty (30) days from the date of this order Chichizola Estate Company shall file with this Commission rules and regulations governing relations with its consumers, to become effective upon their acceptance for filing by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of May, 1923.

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DECISION No. 12006.

IN THE MATTER OF THE APPLICATION OF W. H. MILLER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER, EXPRESS AND BAGGAGE SERVICE BETWEEN UPPER LAKE AND BARTLETT SPRINGS.

Application No. 8636.

IN THE MATTER OF THE APPLICATION OF LAKE COUNTY AUTOMOBILE TRANSPORTATION COMPANY, INCORPORATED, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AN AUTOMOBILE STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS, PARCELS AND EXPRESS BETWEEN UPPER LAKE AND BARTLETT SPRINGS, CALIFORNIA, VIA BARTLETT LANDING, INSOFAR AS THE RAILROAD COMMISSION HAS JURISDICTION OVER THE ROAD BETWEEN SAID POINTS, IN CONJUNCTION WITH, AS PART OF AND AS AN EXTENSION TO THE OPERATIVE RIGHTS OF SAID APPLICANT BETWEEN HOPLAND, LAKEPORT, UPPER LAKE, HIGHLAND SPRINGS, KELSEYVILLE, ADAMS SPRINGS AND SEIGLER SPRINGS.

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Application No. 8739.

Decided May 2, 1923.

*Mannon and Mannon* by Chas. A. Mannon, for W. H. Miller, Applicant and Protestant.

*Harry A. Encell* by James A. Miller, for Lake County Automobile Transportation Company, incorporated, Applicant and Protestant.

*J. J. Geary*, for Northwestern Pacific Railroad Company.

By THE COMMISSION.

OPINION.

In the two proceedings entitled as above each of the applicants applied for a certificate of public convenience and necessity authorizing



the operation of automotive stage service as a common carrier of passengers, baggage and express between Upper Lake and Bartlett Springs, California.

A public hearing in the above entitled applications which were consolidated for the purpose of receiving evidence was held before Examiner Satterwhite on April 12, 1923, at San Francisco, California, at which time the matters were submitted and are now ready for decision.

The records of the Commission show that one Reynolds heretofore held a certificate of public convenience and necessity authorizing operation to Bartlett Springs. The certificate granted to Reynolds provided for the transportation by boat from Lakeport to Bartlett Landing and by automobile stage from Bartlett Landing to the Springs. During one season the water in the lake became too low to permit operation by boat and said Reynolds was granted temporary permission to operate his stages from Bartlett Landing to Upper Lake, there connecting with existing stage service from Hopland. This temporary permission was granted solely on the condition that applicant, if he desired to continue such method of operation, should immediately apply for a certificate of public convenience and necessity authorizing an extension of his service from Bartlett Landing to Upper Lake. No such application was ever filed and in 1923, several years later, Reynolds filed an application for permission to transfer an alleged operative right from Upper Lake to Bartlett Springs via Bartlett Landing, to the Lake County Automobile Transportation Company, a corporation. Such application was denied and the operative right of Reynolds was revoked insofar as it existed. Accordingly, there is at the present time no service by public carrier to Bartlett Springs from rail points of the Northwestern Pacific Railroad.

Applicant Miller at the present time operates a passenger stage service between Ukiah and Upper Lake and the applicant Lake County Automobile Transportation Company, hereinafter called the corporation, operates a stage service from Hopland, through Lakeport to Upper Lake. They both desire to extend their existing service to Bartlett Springs via Bartlett Landing.

Testimony was submitted by Miller to the effect that restaurant conditions at Ukiah as a junction point are far superior to the accommodations offered at Hopland, and that the new highway recently completed between Ukiah and Upper Lake is more suitable for the operation of passenger stages than the highway now operated over by the corporation. It appears that a great preponderance of travel to or from Bartlett Springs is from Bay City points. As Hopland is situated some fourteen miles south of Ukiah, there is practically thirty minutes saving in time via Northwestern Pacific Railroad from Bay points to Hopland.

The time schedule proposed by both applicants is practically the same over both routes. Travel to and from Bartlett Springs has heretofore always gone via Hopland and we do not believe that the evidence at this time warrants a change of routing through Ukiah.

#### ORDER.

A public hearing having been held in the above entitled proceedings, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Lake County Automobile Transportation Company, Incorporated, a corporation, of an automobile stage line as a common carrier of passengers, baggage and express between Upper Lake and Bartlett Springs via Bartlett Landing; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted in so far as this Commission has jurisdiction over public highways between such points, subject to the following conditions:

1. Operation conducted under the certificate herein granted shall be operated in connection with existing stage service now being rendered by above named applicant.

2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedules, identical with those filed as Exhibits "A" and "B" attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

*It is hereby further ordered*, that Application No. 8636 be and the same hereby is denied.

Dated at San Francisco, California, this second day of May, 1923.

## DECISION No. 12016.

IN THE MATTER OF THE APPLICATION OF THE TOOKER STORAGE  
AND FORWARDING COMPANY, A CALIFORNIA CORPORATION,  
FOR AUTHORITY TO ISSUE STOCK.

Application No. 8933.

Decided May 3, 1923.

*Paul S. Honberger*, for Applicant.

BY THE COMMISSION.

## OPINION.

Tooker Storage and Forwarding Company asks permission to issue 497 shares of its capital stock, of the aggregate par value of \$49,700, for the purpose hereinafter indicated.

A public hearing was held before Examiner Williams in Los Angeles on April 27, 1923.

The record shows that applicant was organized on or about March 29, 1923, with an authorized capital stock of \$50,000 divided into 500 shares of the par value of \$100 each, all shares being common. The company has issued three shares of its stock to qualify directors and has agreed to deliver the remaining 497 shares to Stephen C. Tooker, its president, in full payment of certain real property located in the city of Los Angeles.

The property to be thus acquired consists of a lot situated at Lemon street, between Tenth and Eleventh streets, and adjacent to the railroad right of way of the Union Pacific Railroad. It is said to have an area of 26,100 square feet and a value of \$2 per square foot. It is the company's intention, upon acquiring the property, to erect a public warehouse and engage in the general warehouse and storage business.

## ORDER.

Tooker Storage and Forwarding Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required by applicant;

*It is hereby ordered*, that Tooker Storage and Forwarding Company be and it is hereby authorized to issue and deliver \$49,700 of its capital stock in full payment of the property referred to in the foregoing opinion in this application.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and delivery of the stock herein authorized as will enable it to file a verified report with the Commission, within thirty days after such issue and delivery, as

required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the date hereof, but will apply only to such stock as may be issued on or before July 1, 1923.

Dated at San Francisco, California, this third day of May, 1923.

DECISION No. 12017.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY AND COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING (1) SAID CONTRA COSTA GAS COMPANY TO SELL AND SAID COAST COUNTIES GAS AND ELECTRIC COMPANY TO PURCHASE ALL OF THE PROPERTIES OF SAID CONTRA COSTA GAS COMPANY; (2) SAID COAST COUNTIES GAS AND ELECTRIC COMPANY TO ACQUIRE SHARES OF THE CAPITAL STOCK OF SAID CONTRA COSTA GAS COMPANY; AND (3) SAID COAST COUNTIES GAS AND ELECTRIC COMPANY TO ISSUE SHARES OF ITS OWN FIRST PREFERRED CAPITAL STOCK; ALL UPON THE TERMS AND CONDITIONS SPECIFIED IN A CERTAIN AGREEMENT BETWEEN SAID COMPANIES, A TRUE COPY OF WHICH IS ANNEXED TO THIS APPLICATION AND MARKED EXHIBIT "C".

Application No. 8887.

Decided May 3, 1923.

*Leo H. Susman*, for Applicants.

*SEAVEY*, Commissioner.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Contra Costa Gas Company to sell its properties to Coast Counties Gas and Electric Company, and Coast Counties Gas and Electric Company to acquire shares of stock of Contra Costa Gas Company and to issue its own preferred stock in exchange therefor.

Contra Costa Gas Company, a corporation engaged in manufacturing and selling gas in Contra Costa County, was organized on or about June 30, 1914, with an authorized capital stock of \$500,000 divided equally into common and seven per cent preferred stock. Of the authorized amount it appears that at present \$111,150 of the common stock is outstanding. In the petition there is reported outstanding \$238,600 of first mortgage 6 per cent bonds due October 1, 1954, and \$9,900 of demand notes.

Contra Costa Gas Company has agreed to sell all of its properties of every kind and nature to Coast Counties Gas and Electric Company, which company, in consideration, has agreed to assume the payment of all outstanding obligations of Contra Costa Gas Company, including its floating debt and bonded indebtedness and all of its

obligations under its franchises and under its contracts for the sale and delivery of gas and to issue one share of its first preferred six per cent stock fully paid in exchange for each share of the selling company's outstanding \$111,150 of common stock.

As of March 31, 1923, the assets to be acquired and the liabilities to be assumed by Coast Counties Gas and Electric Company are reported as follows:

<i>Assets.</i>	
Fixed capital .....	\$356,597 94
Cash .....	15,668 83
Accounts receivable .....	8,282 06
Investments .....	915 00
Materials and supplies .....	3,965 16
Sinking fund .....	1,056 00
Unamortized discount on bonds .....	23,194 96
Unamortized discount on stock .....	19,869 36
Prepaid expenses .....	511 04
Total assets .....	\$430,060 35
<i>Liabilities.</i>	
Capital stock—Common .....	\$111,150 00
Funded debt .....	238,600 00
Notes payable .....	9,900 00
Accounts payable .....	8,684 19
Interest accrued .....	7,470 00
Other accruals .....	21,815 45
Reserve for accrued depreciation .....	27,059 28
Other reserves .....	1,394 67
Miscellaneous liabilities .....	340 00
Corporate surplus unappropriated .....	3,646 76
Total liabilities .....	\$430,060 35

Contra Costa Gas Company reports its revenues for the year ending December 31, 1922, as \$124,814.81, operating expenses as \$99,252.22 and gross corporate income as \$25,562.59. After paying interest on funded debt and making other deductions from gross income, it reports net profit for the year available for dividends as \$7,454.42. The company's financial reports on file with the Commission show that in 1916 it paid a dividend of  $4\frac{1}{2}$  per cent per annum; from 1917 to 1920 it paid dividends of 6 per cent per annum, and that for the first three-fourths of 1921 a dividend was paid at the rate of 6 per cent per annum. No dividends have been paid since September 30, 1921.

In order to effect the transfer of the properties as proposed herein, Coast Counties Gas and Electric Company will be called upon to assume the payment of approximately \$286,000 of indebtedness and to issue not exceeding \$111,150 of its 6 per cent cumulative first preferred stock. It was reported at the hearing that the holders of \$98,650 of the stock of Contra Costa Gas Company had agreed to surrender their certificates for certificates representing stock in Coast Counties Gas and Electric Company. It is thought that there will be little difficulty in arranging the exchange of the remaining shares.

Coast Counties Gas and Electric Company has an authorized capital stock of \$4,000,000 divided into \$2,000,000 of common stock, \$1,000,000 of original preferred stock and \$1,000,000 of first preferred stock. Of these amounts there is reported outstanding \$1,000,000 of common stock, \$1,000,000 of original preferred stock and \$530,000 of first preferred stock. The first preferred stock is entitled to cumulative dividends at the rate of six per cent per annum before any dividends are paid on the original preferred or common stock, and is preferred as to assets. The original preferred enjoys preference over the common stock similar to the preference of the first preferred over the original preferred.

It appears that both companies at present are under the same control and that no change in management of the Contra Costa Gas Company properties and business will result from the proposed transaction. It is alleged that the transfer of properties will be of benefit to the public because of the ability of Coast Counties Gas and Electric Company to better finance the cost of extensions, additions and betterments and to meet the demand for service.

I herewith submit the following form of order:

#### ORDER.

Application having been made to the Railroad Commission for an order authorizing Contra Costa Gas Company to transfer its properties and Coast Counties Gas and Electric Company to acquire stock of Contra Costa Gas Company and to issue not exceeding \$111,150 of its first preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that Contra Costa Gas Company be and it is hereby authorized to transfer all of its properties and business to Coast Counties Gas and Electric Company, provided Coast Counties Gas and Electric Company assume the payment of all outstanding obligations of Contra Costa Gas Company, including its floating debt and bonded indebtedness and all of its obligations under its franchises and under its contracts for the sale and delivery of gas.

*It is hereby further ordered*, that Coast Counties Gas and Electric Company be and it is hereby authorized to issue not exceeding \$111,150 of its first preferred stock in exchange, on a basis of par for par, for a like amount of the outstanding stock of Contra Costa Gas Company, which stock Coast Counties Gas and Electric Company is hereby authorized to acquire.

The authority herein granted is subject to the following conditions:

1. The consideration for the transfer of properties of Contra Costa Gas Company shall not hereafter be urged before this Commission, or

other court or public body, as a measure of value in fixing rates, or for any purpose other than the transfer herein authorized.

2. Applicant shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. Coast Counties Gas and Electric Company shall file with the Railroad Commission within thirty days after its execution, a certified copy of the deed under which it secures and holds title to the properties of Contra Costa Gas Company.

4. The authority herein granted will become effective upon the date hereof, but will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of May, 1923.

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DECISION No. 12018.

IN THE MATTER OF THE APPLICATION OF THOMAS HALBERT WILLIAMS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE EXPRESS AND FREIGHT SERVICE BETWEEN ALTA LOMA, ETIWANDA, HIGHLANDS, EAST HIGHLANDS, DEL ROSA, SAN BERNARDINO, RIALTO, MENTONE, YUCAIPA, REDLANDS, EAST REDLANDS, COLTON AND LOS ANGELES.

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Application No. 8817.

Decided May 3, 1923.

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*H. S. Clewett*, for Applicant.

*Kidd and Hardy*, by *Carroll C. Roberts*, for Motor Transit Company, Keystone Express and T. R. Rex, Protestants.

*R. E. Wedekind*, for Pacific Electric Railway, Protestant.

BY THE COMMISSION.

OPINION.

Thomas Halbert Williams asks permission of the Railroad Commission to establish service for the transportation of eggs and poultry supplies between Alta Loma, Etiwanda, Highlands, East Highlands, Del Rosa, San Bernardino, Rialto, Mentone, Yucaipa, Redlands, East Redlands, Colton and Los Angeles and intermediate points.

A public hearing was held by Examiner Williams at Los Angeles.

Applicant was granted by Decision No. 11761 and Decision No. 11468 on Application No. 8438 certificate to establish similar service for certain other regions west of those named in the present application.



In effect it is applicant's purpose to extend his service to the eastern egg-producing territory on the same basis and proportionately the same rates as already authorized.

Public necessity for the service was shown by the testimony of Henry B. Stanley, secretary of the Poultry Producers of Southern California, Incorporated, and George W. Baake, a large producer of Highlands. The abandonment of a storage plant at San Bernardino by the Poultry Producers of Southern California, Incorporated, necessitates transportation of the product of San Bernardino County poultrymen to Los Angeles at least twice each week. Applicant is to perform the service for the association as well as the general public.

Applicant stipulated that he would transport only eggs to Los Angeles and only poultry foods, bran, mixed foods, shell and hovers, but no lumber on his return trip, and all protests were withdrawn. Applicant further stipulated that he would accept a certificate as an extension of rights granted by Decisions Nos. 11761 and 11468 on Application No. 8438 and not as a new or separate grant.

Applicant's rates and schedules were shown by the witnesses heretofore named to be reasonable and efficient in marketing the product of several score poultrymen, especially in the pick-up at ranches, which other carriers do not give.

There appears no reason why the application should not be granted as an extension of applicant's present rights and for reasons set forth in the previous opinions referred to.

#### ORDER.

Thomas Halbert Williams having applied to the Railroad Commission for a certificate of public convenience and necessity to operate express and freight service between Alta Loma, Etiwanda, Highlands, East Highlands, Del Rosa, San Bernardino, Rialto, Mentone, Yucaipa, Redlands, East Redlands, Colton and Los Angeles, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment by said applicant of express and freight service between Alta Loma, Etiwanda, Highlands, East Highlands, Del Rosa, San Bernardino, Rialto, Mentone, Yucaipa, Redlands, East Redlands, Colton and Los Angeles for eggs on west-bound trips and poultry foods, bran, mixed foods, shell and hovers, over the following routes:

Route One—Pomona to Alta Loma, via Holt avenue, Euclid avenue and Olive street; Alta Loma through Etiwanda to San Bernardino via Highland avenue; San Bernardino to Highlands and East Highlands via Highland avenue; return from East Highlands to San Bernardino through Del Rosa via Base Line road; return San Bernardino to Pomona through Rialto via Foot Hill boulevard.



Route Two—Pomona to San Bernardino via Holt avenue, Archibold avenue and Foot Hill boulevard; San Bernardino to Redlands via Mission boulevard; Redlands to Mentone and East Redlands via Lugonia avenue; thence to Yucaipa Valley through Yucaipa Valley road; return through Redlands via Citrus avenue; thence through Colton to Pomona via Colton avenue,

and that a certificate of public convenience and necessity be and the same hereby is granted on the following conditions:

I. That applicant file within fifteen (15) days from date hereof a stipulation that he will accept the certificate herein granted as an extension of his present service to Los Angeles, as set forth in Decisions Nos. 11761 and 11468 and not as a new or separate certificate.

II. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

III. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

IV. *It is hereby ordered*, that applicant shall, within fifteen (15) days from the date hereof file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application, shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty (30) days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

Dated at San Francisco, California, this third day of May, 1923.

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DECISION No. 12020.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL FOUR MILLION DOLLARS PAR VALUE OF PREFERRED STOCK.

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Application No. 8836.

Decided May 3, 1923.

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Chaffee E. Hall, for Applicant.

SEAVEY, Commissioner.

OPINION.

Great Western Power Company of California asks permission to issue and sell \$4,000,000 par value of its 7 per cent cumulative preferred stock at not less than 95 and accrued dividends net, and use the proceeds to pay the cost of extensions, additions and betterments to its plants and properties.

Applicant has an authorized stock issue of \$60,000,000, divided into \$30,000,000 of common and \$30,000,000 of 7 per cent cumulative preferred. Of the common, \$27,500,000 and of the preferred \$6,021,384.21 was outstanding on December 31, 1922. Applicant's outstanding funded debt in the hands of the public on the same date is reported at \$44,425,750.

The company reports that it will be called upon to spend for capital purposes during 1923 and 1924 the sum of \$4,411,800. Of this amount, \$487,839 will be taken care of through the sale of stock and bonds, the issue of which the Commission has heretofore authorized. Deducting the \$487,839 from the \$4,411,800 leaves a balance of \$3,923,961.

The construction expenditures referred to in this application may be summarized as follows:

*1922 Construction work not completed Jan. 1, 1923 (Exhibit No. 1)*

San Francisco District -----	\$177,500 00	
Oakland District -----	486,900 00	
Sacramento District -----	68,600 00	
Big Bend District -----	47,700 00	
		\$780,700 00

*Production and Transmission Capital (Exhibit No. 2)*

Raising Butte Valley Dam -----	\$225,000 00	
Third Unit (22,000 k. v. a.) at Caribou plant ----	904,000 00	
Transformers and switches at Big Bend -----	172,000 00	
Transformers and switches at Brighton -----	107,500 00	
Valona-Golden Gate transmission line -----	140,500 00	
Golden Gate substation equipment -----	445,000 00	
Isleton transformer -----	7,500 00	
		2,001,500 00

*Special Distribution (Exhibit No. 3)*

Sacramento -----	\$80,000 00	
Oakland -----	47,600 00	
San Francisco -----	15,000 00	
		142,600 00

*Distributing Line Extensions (Exhibit No. 4)*

1923 -----	\$722,000 00	
1924 -----	700,000 00	
		1,422,000 00

*Miscellaneous (Exhibit No. 5)*

-----	65,000 00	
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Total -----	\$4,411,800 00	
Less amount heretofore financed -----	487,839 00	
Money requirements -----	\$3,923,961 00	

Applicant requests permission to issue \$4,000,000 of 7 per cent preferred stock and sell the same for not less than \$95 and accrued dividends net per share and use such net proceeds to pay in part the cost of the additions and betterments referred to above. The order will permit applicant to sell the \$4,000,000 of stock at not less than par and expend an amount not exceeding 5 per cent of the par value of the stock sold to pay commissions and expenses incident to the sale of the stock. If applicant expends for such purposes more than 5

per cent, it must pay same from income obtained from sources other than the sale of stock, bonds or other evidences of indebtedness.

I herewith submit the following form of order:

**ORDER.**

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell \$4,000,000 par value of its 7 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as provided in this order; therefore

*It is hereby ordered*, that Great Western Power Company of California be and it is hereby authorized to issue and sell, for cash, at not less than par \$4,000,000 par value of its 7 per cent cumulative preferred stock and use an amount of the proceeds not exceeding 5 per cent of the par value of the stock sold to pay commissions and expenses incident to the sale of the stock, and use the remainder of the proceeds to pay in part such cost of the extensions, additions and betterments referred to in Exhibits "1" to "5", both inclusive, filed in this proceeding, as is properly chargeable to capital account under the uniform system of accounts prescribed and adopted by the Railroad Commission or for such other purposes as the Railroad Commission may authorize by supplemental order or orders.

The authority herein granted is subject to further conditions as follows:

1. Great Western Power Company of California shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted to issue stock will become effective on the date hereof and will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of May, 1923.

## DECISION No. 12021.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WAREHOUSE  
COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCK.

Application No. 8538.

Decided May 3, 1923.

*Hugh K. McKevitt*, for Applicant.

MARTIN, *Commissioner*.

## OPINION.

Port Costa Warehouse Company asks permission to issue \$850,000 of its common capital stock.

Applicant has an authorized stock issue of \$1,000,000 divided into 10,000 shares of \$100 each. By Decision No. 7408, dated April 9, 1920, the Railroad Commission authorized applicant to issue \$150,000 of stock in payment for the wharf and warehouse properties formerly owned by Port Costa Warehouse and Dock Company. Of the outstanding stock, applicant's annual report shows that \$74,800 is owned by A. Cohn and \$74,800 by E. A. Strauss.

The wharf and warehouse properties have been reconstructed by applicant at a cost to March 31, 1923, of \$359,895.30. The money necessary to pay for the rebuilding of the properties was advanced by applicant's stockholders. It is alleged that the properties in their present condition are worth considerably more than the original cost plus the cost of reconstructing them. While such may be the case, the Commission will not use the alleged value as a basis for the issue of stock. It will authorize the issue of \$360,000 of stock, an amount approximately equal to the cost of rebuilding the wharf and warehouse properties. It is of record that this stock will be issued to A. Cohn and to E. A. Strauss.

I herewith submit the following form of order:

## ORDER.

Port Costa Warehouse Company having applied to the Railroad Commission for permission to issue \$850,000 of common capital stock, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be authorized to issue \$360,000 of stock and that the money, property or labor to be procured or paid for by the issue of such an amount of stock is reasonably required by applicant; therefore

*It is hereby ordered*, that Port Costa Warehouse Company be and it is hereby authorized to issue \$360,000 par value of its common capital stock to liquidate indebtedness incurred to reconstruct its wharf and warehouse properties, and reimburse its stockholders for moneys advanced for such reconstruction.

The authority herein granted is subject to the following conditions:

1. Port Costa Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective on the date hereof and will expire on October 1, 1923.

*It is hereby further ordered*, that this application, in so far as it involves the issue of \$490,000 par value of common capital stock, be dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of May, 1923.

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DECISION No. 12022.

IN THE MATTER OF THE APPLICATION OF THE NORTH MONETA GARDEN LANDS WATER COMPANY, A CORPORATION, AND W. T. ESTEP FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR SALE OF WATER.

Application No. 8642.

N. H. BERGEREN AND FORTY-SIX OTHER WATER CONSUMERS AND LANDOWNERS

*vs.*

NORTH MONETA GARDEN LANDS WATER COMPANY, A CORPORATION.

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Case No. 1750.

Decided May 3, 1923.

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*Salzman and Kornblum* by *I. B. Kornblum*, for Applicants and Defendant.

*L. D. Whaley*, for Consumers and Complainants.

*M. B. McNamara*, *in propria persona*, Complainant.

BY THE COMMISSION.

OPINION.

In the above entitled application the North Moneta Garden Lands Water Company, a corporation, and W. T. Estep ask authority to increase rates for the sale of water to consumers in the North Moneta Garden Lands Tract No. 874, in Los Angeles County.

Case No. 1750 is a complaint filed by N. H. Bergeren and other consumers and landowners against the North Moneta Garden Lands Water Company alleging in effect that the utility has neglected to make necessary repairs and betterments to the system to enable it to furnish adequate and satisfactory water service to its consumers; that

the pipe lines and mains are allowed to leak to such an extent that certain portions of land are continually soaked with seepage water, and are thereby rendered useless and unhealthful; that some of the consumers are unable to obtain any water at certain hours of the day, and are unable at any time to obtain water under sufficient pressure; that a 4-inch main on Rosecrans avenue which was formerly connected with the lateral pipe lines so as to form a circulating system, has been removed or disconnected, with the result that the water supplied to the southerly portion of the tract is stagnant and unhealthful; that because of the conditions herein outlined, the consumers are not receiving an adequate or proper service, their lands are depreciating in value, their health is endangered, and they are being greatly damaged. The Commission is therefore asked to conduct an investigation and compel defendant to make such repairs and betterments to the system as are necessary to render adequate and satisfactory service.

A public hearing in these matters was held before Examiner Williams at Los Angeles. All of applicants' consumers were duly notified and given an opportunity to appear and be heard. As these proceedings are closely related, it was stipulated at the hearing by all interested parties that the two matters might be combined for hearing and decision.

The testimony shows that applicant is serving approximately 110 consumers at the following rates: .

*Domestic.*

Flat rate of \$1.50 per month for water through a  $\frac{3}{4}$ -inch pipe attached by a reducer to a 4-inch main.

*Irrigation.*

- (1) Flat rate of 50 cents per hour for water delivered through a 2-inch hydrant attached to a 4-inch main.
- (2) Metered rate of 6 cents per 100 cubic feet, where the consumer desires to furnish his own meter, or  $7\frac{1}{2}$  cents per 100 cubic feet where the water company furnishes the meter.

The Commission in Decision No. 7880, dated July 15, 1920, and Decision No. 8122 (a supplemental order dated September 18, 1920), granted a revision of rates conditioned on the repair of leaks, the rendering of adequate service and the restoration of the main on Rosecrans avenue between Williams and Centennial streets. Applicant did not comply with the conditions set forth in the above referred to decisions and the rates therein granted have not yet been put into effect.

At the hearing applicants requested that they be granted the rates set forth in the above referred to decisions and stipulated that they would comply with the provisions therein. The complainants in Case No. 1750 also stipulated that they would be satisfied if those conditions were fulfilled.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report showing an estimated original cost of applicant's system amounting to \$30,700 and a replacement annuity of \$721. A reasonable annual maintenance and operation expense was estimated at \$2,000 per year and operating revenues at \$2,500. However, there are no accurate figures upon which either could be based. No objections were made to any of the estimates presented by Mr. Van Hoesen.

The above figures indicate that the revenue does not equal the maintenance and operating costs and replacement annuity, and it appears that applicants are entitled to an increase in revenue. However, the evidence shows that applicants' system covers a large area of sparsely settled territory and the present consumers should not be called upon to pay the total annual charges. Applicants further agreed that the rates set out in the accompanying order will be satisfactory.

The evidence shows that applicants have failed to make necessary repairs to their system. The pipe lines leak in many places and the connecting main on Rosencrans avenue has not been restored, thus decreasing the adequacy of the service. These conditions should not be permitted to continue and the establishment of a schedule of increased rates will be conditioned on compliance with the provisions of the accompanying order.

#### ORDER.

North Moneta Garden Lands Water Company, a corporation, and W. T. Estep having made application in the above entitled proceeding and N. H. Bergeren et al having made complaint against the North Moneta Garden Lands Water Company, as entitled above, a public hearing having been held thereon, the matter having been submitted and being now ready for decision:

It is hereby found as a fact that the rates now charged by North Moneta Garden Lands Water Company, a corporation, and W. T. Estep, for water supplied to consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for adequate service;

It is hereby further found as a fact that the system of defendant is not in proper condition of repair to render adequate water service to its consumers and that the service herein complained of can be materially improved by making repairs to the pipe line and restoring the former 4-inch main on Rosencrans avenue and connecting the same to the lateral pipe lines so as to effect proper circulation of water in the distribution system.

And basing the order upon the foregoing findings of fact and the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that North Moneta Garden Lands Water Company, a corporation, and W. T. Estep be and they are hereby ordered:

1 To proceed diligently to install and complete within sixty (60) days from the date of this order a four (4) inch pipe along Rosenkrans avenue between Williams and Centenalia streets, connecting same with all laterals extending thereto.

2 To proceed immediately to repair breaks and leaks in the pipe system and complete same within sixty (60) days of date hereof.

3 To file a written report with this Commission within thirty (30) days from the date of this order, setting forth a statement of work already performed hereunder and plans for the completion thereof.

*It is hereby further ordered*, that North Moneta Garden Lands Water Company, a corporation, and W. T. Estep be and they are hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates for water service, which are to be made effective by a supplemental order of this Commission upon the satisfactory completion of the foregoing ordered improvements and not otherwise:

*Domestic Flat Rate.*

(1) For a $\frac{3}{4}$ -inch service attached to a 4-inch main, a monthly flat rate for residences, boarding houses or tenements of 5 rooms or less of ----	\$1 50
For each additional room per month -----	25
Additional for private barn or garage with not more than two horses or cows or one automobile, per month -----	50
For each additional horse or cow per month -----	20
For each additional automobile per month -----	50
(2) Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard per month -----	005

*Irrigation Rates.*

A flat rate per hour for water delivered through a two (2) inch hydrant attached to a four (4) inch main of -----	\$0 75
---	--------

*Domestic Meter Rates.*

For 400 cubic feet of water or less -----	\$1 00
From 400 cubic feet to 1000 cubic feet, per 100 cubic feet -----	20
From 1000 cubic feet to 2000 cubic feet, per 100 cubic feet -----	15
All in excess of 2000 cubic feet, per 100 cubic feet -----	12

NOTE: Meters may be installed at the option of the consumer or the company.

When a meter is installed at the request of a consumer, a deposit may be required, such deposit to be returned to the consumer as a credit on monthly bills at a rate of one twentieth (1/20) of the deposit per month. The following deposits may be required:

For $\frac{3}{8}$ -inch meter -----	\$15 00
For $\frac{1}{2}$ -inch meter -----	20 00
For 1-inch meter -----	25 00
For 1 $\frac{1}{2}$ -inch meter -----	45 00
For 2-inch meter -----	70 00

Dated at San Francisco, California, this third day of May, 1923.



## DECISION No. 12023.

IN THE MATTER OF THE APPLICATION OF CARL E. HOFER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK SERVICE BETWEEN IRVINE, CALIFORNIA, AND LAGUNA BEACH, CALIFORNIA.

Application No. 8712.

Decided May 3, 1923.

*T. A. Woods*, for Applicant and American Railway Express.  
*Clyde Bishop*, for Crown Stages, Protestant.

BY THE COMMISSION.

## OPINION.

Carl E. Hofer has applied to the Railroad Commission for a certificate of public convenience and necessity to operate motor truck service between Irvine and Laguna Beach.

A public hearing was held at Laguna Beach by Examiner Williams.

Applicant conducts an agency for the American Railway Express on a commission basis at Laguna Beach, an unincorporated community of about 1000 normal population, though it has reached as high as 15,000 during the summer season. Laguna Beach is a resort and hundreds of families make it a vacation point for weeks at a time. In order to make his agency effective applicant began transporting express matters between termini in November, 1922, meeting all trains. In addition applicant is contract carrier between points for the United States mails. It was admitted that applicant received from American Railway Express Company 25 cents per 100 pounds for transporting express matters, which arrangement was made when the agency was established.

February 19, 1923, applicant ceased such transportation of express matter in obedience to advice from the Railroad Commission that the operation without legal certificate was being conducted in violation of chapter 213 of the act of 1917, as amended. Since that time protestant Crown Stages has transported express matter between termini at its established package rates. Applicant immediately filed his application for a certificate of public convenience and necessity to transport express and freight between termini and intermediate points at the rate of 25 cents per 100 pounds, indiscriminately.

Applicant presented many witnesses in his behalf, whose testimony, in general, was that the service of protestant Crown Stages was inefficient and unsatisfactory, while that given by applicant between November 1, 1922, and February 19, 1923, was satisfactory. These witnesses pointed out specific instances of inefficiency on the part of protestant. Applicant's testimony is sufficient to establish local preference for applicant's service. This is further emphasized by the

fact that protestant did not produce one witness from Laguna Beach to prove efficient or satisfactory service.

Protestant employs a combination passenger and freight vehicle on its regular thrice daily schedule between Santa Ana and Laguna Beach, via Irvine. This vehicle has a rear compartment  $4 \times 8 \times 5\frac{1}{2}$  feet, to carry all express or freight tendered. Protestant's testimony through L. H. Shute, its General Manager, was that this compartment would convey 2500 pounds. A truck is used to transport express and freight in excess of the capacity of this vehicle combination.

Protestant filed exhibits purporting to show that without the revenue incident to hauling express, the service between Irvine and Laguna Beach, maintained by protestant, would sustain a loss. In our opinion, after careful analysis, these exhibits do not conclusively sustain this contention.

The larger question involved is whether an extension of the nation wide through service of the American Railway Express is to become available, at the usual rates of this company, to the people of Laguna Beach. This company has published rates that show only slight increases over the company's rates to Irvine. A comparison of the difference in rates on first class matter if the application is granted and the rates of protestant, between Irvine and Laguna Beach, is found in the following:

<i>Weight</i>	<i>Applicant</i>	<i>Protestant</i>
10 pounds	4 cents	15 cents
20 pounds	5 cents	25 cents
30 pounds	9 cents	25 cents
50 pounds	15 cents	35 cents
80 pounds	24 cents	35 cents
100 pounds	30 cents	35 cents

Wider differences are shown on other class and commodity rates. From the above it is seen that the American Railway Express by using applicant's service will be able to serve Laguna Beach at a slightly increased rate, due to the fact that applicant will transport express matter at a uniform rate of 25 cents per 100 pounds. Applicant also has the contract for carrying United States mails and parcel post. As against this apparent advantage Mr. T. A. Woods, superintendent of the American Railway Express, testified that the Laguna Beach office would have to be abandoned if required to depend on protestant's service and rates. Protestant was offered a stipulation that applicant's service would be restricted to matter consigned by American Railway Express but declined. Protestant made no offer of adjusted service or rates.

While rates are not the sole test of public convenience and necessity we have indulged in this discussion to show the reasons for our conclusion that the need of the service of the American Railway Express

can not be met either by the rates or service of protestant. Applicant proposes to make connection with all trains at Irvine which service is not offered by protestant. Public convenience and necessity is best served by the extension of usual and familiar utility facilities where same are needed and upon the best terms possible for the public. In this proceeding we believe this will be done by granting authority to applicant to transport express matter between Irvine and Laguna Beach when consigned only via American Railway Express and at the rate proposed in Exhibit "A" of the application. The testimony does not justify the establishment of any other express or freight service. This will leave the field clear to protestant to conduct its usual business as it existed prior to November 1, 1922, the date of the establishment of an American Railway Express office at Laguna Beach.

#### ORDER.

Carl E. Hofer having applied to the Railroad Commission for a certificate of public convenience and necessity to operate express and freight service between Irvine and Laguna Beach, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Carl E. Hofer of an automobile freight service for the transportation of express matter consigned via American Railway Express only between Irvine and Laguna Beach, over and along the following route:

Main county highway between Irvine and Laguna Beach and that a certificate of public convenience and necessity therefor be and the same hereby is granted on the following conditions:

1. That applicant, Carl E. Hofer, shall file within fifteen (15) days from date hereof, his written acceptance of the certificate herein granted, and shall file within thirty (30) days of the date hereof, duplicate tariff of rates and time schedules, in accordance with General Order No. 51 of the Railroad Commission, and shall begin service within sixty (60) days from date hereof.
2. That applicant, Carl E. Hofer, shall not sell, lease, assign or discontinue the service herein authorized, unless such sale, lease, assignment, or discontinuance shall have been authorized by the Railroad Commission.
3. That no vehicle shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this third day of May, 1923.

## DECISION No. 12032.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR A CERTIFICATE OF THE RAILROAD COMMISSION THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE FRANCHISES GRANTED TO SAID COMPANY BY ORDINANCES NOS. 320 AND 321 OF THE CITY OF GILROY.

Application No. 8921.

Decided May 3, 1923.

*Leo H. Susman*, for Applicant.

*MARTIN*, Commissioner.

## OPINION.

Coast Counties Gas and Electric Company asks the Railroad Commission to declare that public convenience and necessity require the exercise by applicant of the rights and privileges granted by Ordinances Nos. 320 and 321 passed on March 12, 1923, by the common council of the city of Gilroy, State of California. A hearing was held on April 26th and the matter submitted.

Copies of these ordinances have been filed in this proceeding. In general, Coast Counties Gas and Electric Company, its successors and assigns, is granted for a term of twenty-five (25) years, the right to construct and maintain electric lines and gas mains in the highways, streets and alleys in the City of Gilroy and to use the same for the purpose of conveying, distributing and supplying electricity and gas to the public, and particularly to the inhabitants of the city of Gilroy for light, heat and power and all lawful purposes, all rights being subject to the terms and conditions set forth in the ordinances.

Among other things, the ordinances require that applicant, its successors and assigns pay during the life of these franchises to the said city of Gilroy an amount equal to 2 per cent of the gross annual receipts arising from the use, operation and possession thereof, the payment of this tax to start on April 12, 1923, the effective date of these franchises.

Both the gas and electric system in Gilroy were originally operated as municipal enterprises, but for a number of years, the property has been under lease to the Coast Counties Gas and Electric Company and has been operated by it. This arrangement continued until February 27, 1922, on which date applicant purchased the systems outright from the city.

Evidence shows that no other utility is at present supplying either gas or electricity in the city of Gilroy. Applicant reports the cost of securing these franchises at twenty-five (25) dollars each and has filed a stipulation agreeing that neither it nor its successors and assigns will

ever claim before the Railroad Commission of the State of California a value for either franchise in excess of twenty-five (25) dollars.

I hereby submit the following form of order:

**ORDER.**

Coast Counties Gas and Electric Company, having asked the Railroad Commission to declare that public convenience and necessity require applicant, its successors and assigns, to exercise the rights and privileges granted to it by the city of Gilroy under Ordinances Nos. 320 and 321, passed on March 12, 1923, by the common council of said city of Gilroy, public hearing having been held and it appearing to the Railroad Commission that public convenience and necessity require applicant, its successors and assigns, to exercise the rights and privileges granted to it by the city of Gilroy under Ordinances Nos. 320 and 321 passed on March 12, 1923, by the common council of said city of Gilroy, public hearing having been held and it appearing to the Railroad Commission, that public convenience and necessity require the exercise by applicant, its successors and assigns, of the rights and privileges referred to in said ordinances; therefore,

The Railroad Commission of the State of California, hereby declares that public convenience and necessity require, and will require the exercise by Coast Counties Gas and Electric Company, its successors and assigns of the rights and privileges conferred upon it by Ordinances Nos. 320 and 321, both passed on March 12, 1923, by the Common Council of the city of Gilroy.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission in the State of California.

Dated at San Francisco, this third day of May, 1923.

**DECISION No. 12037.**

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, TO CHANGE THE HEATING STANDARD OF GAS FURNISHED BY IT IN THE CITY OF SANTA BARBARA AND CONTIGUOUS UNINCORPORATED TERRITORY IN THE COUNTY OF SANTA BARBARA.

Application No. 8945.

Decided May 5, 1923.

BRUNDIGE, *Commissioner.*

**OPINION.**

Southern Counties Gas Company of California, hereinafter referred to as "Applicant," alleges that arrangements have been made for a supply of natural gas for distribution to its consumers in the city of Santa Barbara, that it has come to an agreement with the officials of

the city of Santa Barbara regarding the quality of gas to be served, the rates to be charged therefor, and the disposition of the net income to be realized from the operation of the transmission line and the present distribution system, and asks for an order of the Railroad Commission, approving the agreement with the city officials of Santa Barbara, and authorizing an increase in the quality of gas supplied in Santa Barbara.

The so-called agreement between the company and the city officials of Santa Barbara is in the form of a letter addressed to the city council, setting forth the company's proposals and a reply from the city manager showing that the council had gone on record as approving the plan as submitted.

Briefly, Southern Counties Gas Company of California proposes to construct a compressor station in the Ventura River oil field and a six (6) inch transmission line to Santa Barbara, all at an estimated expenditure of approximately two hundred and seventy-seven thousand (\$277,000) dollars. Applicant proposes to substitute for the artificial gas containing approximately five hundred and fifty (550) B.t.u. to the cubic foot now being manufactured a mixture of natural gas and reformed natural gas which will contain approximately seven hundred (700) B.t.u. to the cubic foot which is to be sold at the present rates.

From the net income realized from the operation of the transmission line and the Santa Barbara properties, applicant proposes to set aside a return of eight and twenty-five hundredths per cent upon the rate base of its Santa Barbara district, a return of ten per cent upon the investment in transmission line facilities, and a depreciation annuity upon the depreciable capital of its Santa Barbara district, as heretofore established by this Commission. Any net income in excess of these items is to be devoted to the amortization of the investment in transmission facilities, but if earnings increase to a point which would result in too rapid amortization of the transmission investment, rates to consumers in Santa Barbara are to be reduced. In this event, however, the company expects to share equally with its consumers in the economies effected.

Consumers will profit by receiving approximately twenty-seven (27) per cent more heat for the same money and by the elimination of the present cost of fuel oil the company will effect a reduction in operating expenses through which it expects to offset the decrease in revenue, due to a smaller consumption of better quality gas, and to pay the expenses of transmitting the natural gas. It is pointed out that the plan will also conserve natural gas which is now going to waste, will eliminate complaints traceable to the sulphur content of the oil from which gas is now being manufactured, and will eliminate a smoke nuisance. The increase in the heat content of the gas supplied to consumers in Santa

Barbara will unquestionably be of benefit to them and is the equivalent of a substantial reduction in rates.

The agreement with the city officials of Santa Barbara appears to be the result of a commendable spirit of cooperation between the utility and the city in endeavoring to secure the fullest utilization of natural resources for the benefit of the ultimate consumer at a reasonable cost to the consumer and with a reasonable profit to the agency developing those resources.

This Commission, however, can not give to any such agreement any approval that might limit it in the future exercise of its jurisdiction or in the performance of the duties imposed upon it by law. The reasonableness of the disposition which the company proposes to make of any net income realized from the operation of the transmission line and the Santa Barbara property must, therefore, be subject to consideration at the time of any future inquiry.

#### ORDER.

Southern Counties Gas Company of California, having applied to the Railroad Commission of the State of California for an order, authorizing it to increase the quality of gas supplied to its consumers in the city of Santa Barbara from five hundred and fifty (550) B.t.u. per cubic foot to seven hundred (700) B.t.u. per cubic foot, and approving a certain agreement between said Southern Counties Gas Company of California and the officials of the city of Santa Barbara, and the Railroad Commission being of the opinion that such change in the quality of gas is in the interest of consumers;

*It is hereby ordered*, that Southern Counties Gas Company of California be and it is authorized to increase the quality of gas sold to consumers in the city of Santa Barbara from five hundred and fifty (550) B.t.u. per cubic foot to seven hundred (700) B.t.u. per cubic foot, such increase in quality to become effective with the completion of a proposed natural gas transmission line and the supply of natural gas to the works of Southern Counties Gas Company of California in the city of Santa Barbara.

*It is hereby further ordered*, that as to the approval of the agreement between Southern Counties Gas Company and the officials of the city of Santa Barbara, this application be, and the same is hereby dismissed without prejudice.

Dated at San Francisco, this fifth day of May, 1923.

## DECISION No. 12038.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, APPROVING A CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN APPLICANT AND TRUCKEE RIVER POWER COMPANY, A CORPORATION, DATED MARCH 23, 1923.

Application No. 8910.

Decided May 5, 1923.

MARTIN, *Commissioner*.

## OPINION.

Pacific Gas and Electric Company asks for an order of the Railroad Commission, approving a contract entered into by and between Pacific Gas and Electric Company and Truckee River Power Company, dated March 23, 1923.

The contract in question is for a term of ten (10) years and covers the construction by Pacific Gas and Electric Company of a sixty thousand (60,000) volt electric transmission line from its present system to a point near Summit, Placer County, California, and the delivery at that point of not to exceed five thousand (5000) kilowatts of electric power.

The energy delivered over this line is to be charged for at the regularly filed rates of Pacific Gas and Electric Company, the special features of the contract being in connection with an advance payment by Truckee River Power Company of a portion of the cost of the above mentioned transmission line, the refunding to Truckee River Power Company of this advance payment by a twenty (20) per cent discount upon future bills for energy and the guarantee by Truckee River Power Company of a minimum annual bill of twenty thousand (20,000) dollars.

Subject to these provisions, power is to be delivered and paid for at the standard rate of Pacific Gas and Electric Company applicable to resale service and under the usual conditions.

The special features of the contract already referred to all have to do with the extension of Pacific Gas and Electric Company's transmission line and upon examination, are found to be reasonable.

## ORDER.

Pacific Gas and Electric Company having applied for an order of the Railroad Commission of the State of California, approving a certain agreement entered into by and between applicant and Truckee River Power Company, a corporation, dated March 23, 1923, and the Railroad Commission being of the opinion that said agreement is reasonable and should be approved;



*It is hereby ordered*, that said agreement between Pacific Gas and Electric Company and Truckee River Power Company be and the same is hereby approved.

Dated at San Francisco, California, this fifth day of May, 1923.

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DECISION No. 12040.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER, LIGHT AND POWER COMPANY, SONOMA CITY WATER WORKS AND SONOMA VISTA WATER COMPANY FOR PERMISSION TO SELL CERTAIN PROPERTIES TO THE SONOMA WATER AND IRRIGATION COMPANY; AND IN THE MATTER OF THE APPLICATION OF SONOMA WATER AND IRRIGATION COMPANY FOR PERMISSION TO PURCHASE SAID PROPERTIES AND TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF ITS PREFERRED STOCK AND FIFTY THOUSAND DOLLARS OF ITS COMMON STOCK FOR THE PURPOSE OF ACQUIRING SAID PROPERTIES; TO CONSOLIDATE THE DISTRIBUTING SYSTEMS OF THE THREE PROPERTIES AND TO PUT IN A CONCRETE BOTTOM IN THE RESERVOIR NOW OWNED BY SONOMA VALLEY WATER, LIGHT AND POWER COMPANY.

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Application No. 6637.

Decided May 5, 1923.

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BY THE COMMISSION.

**FIFTH SUPPLEMENTAL ORDER.**

Sonoma Water and Irrigation Company, by Decision No. 9683, dated October 31, 1921, as amended, was authorized to issue \$100,000 of preferred stock and \$40,000 of common stock and to assume the payment of indebtedness in the face amount of \$10,000.

The order of the Commission, as amended, authorized the company to assume the indebtedness and deliver the common stock in payment for the properties of Sonoma Valley Water, Light and Power Company, and to sell the preferred stock to finance the cost of additions, betterments and improvements. It is provided, however, that the proceeds from the sale of the preferred stock might be expended only when authorized by the Commission in supplemental orders.

Heretofore the company has been permitted to use \$800 received from the sale of the preferred stock. It now asks permission to use an additional amount of \$10,000 to finance the cost of connections, meters and other extensions and betterments, to purchase new pipe and pay the cost of installation, and to pay in part the indebtedness it heretofore was authorized to assume, all as set forth in a statement filed in the above entitled matter on April 18, 1923.

The Commission has considered applicant's request and believes it should be granted as herein provided; therefore,

*It is hereby ordered*, that the order in Decision No. 9683, dated October 31, 1921, as amended, be and it is hereby modified so as to permit

Sonoma Water and Irrigation Company to use not exceeding \$10,000 of the proceeds received, or to be received, from the sale of the preferred stock authorized by the order in said decision to pay the indebtedness and to finance the cost of extensions, improvements, additions and betterments referred to herein and in the statement filed in this proceeding on April 18, 1923.

*It is hereby further ordered*, that the order in Decision No. 9683, dated October 31, 1921, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

Dated at San Francisco, California, this fifth day of May, 1923.

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DECISION No. 12041.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT, CUMULATIVE PRIOR PREFERRED STOCK.

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Application No. 7465.

Decided May 5, 1923.

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BY THE COMMISSION.

TENTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9989, dated January 12, 1922, authorized San Joaquin Light and Power Corporation to issue and sell 50,000 shares of its 7 per cent cumulative prior preferred stock of the aggregate par value of \$5,000,000.

The order of the Commission as amended from time to time permits the company to expend the proceeds obtained from the sale of \$4,772,705.41 of the stock to pay current indebtedness incurred in the acquisition of materials and supplies and to finance in part construction expenditures made prior to February 28, 1923. The proceeds from the sale of the remaining \$227,294.59 of stock may be expended only for such purposes as the Commission may authorize in supplemental order.

The company now reports that during the month of March, 1923, it expended money or incurred indebtedness in the amount of \$252,532.52 for the purpose of providing necessary additions, extensions, improvements and betterments to its plants and properties, as shown in detail in the statement of expenditures against estimates for the month of March, which is on file with the Commission. It alleges that these expenditures are properly chargeable to capital account and have not yet been paid or provided for through the issue of stock or bonds.

Applicant therefore asks, in a supplemental petition filed in the above entitled matter on April 30, 1923, that it be permitted to withdraw the proceeds from the sale of the remaining \$227,294.59 of the stock authorized by Decision No. 9989 to finance in part the reported expenditures.

The Commission has considered applicant's request and believes that it should be granted as herein provided; therefore

*It is hereby ordered*, that San Joaquin Light and Power Corporation be and it is hereby authorized to withdraw the proceeds from the sale of \$227,294.59 par value of preferred stock, the issue and sale of which is authorized by the order in Decision No. 9989, dated January 12, 1922, to pay indebtedness incurred on account of its March, 1923, construction expenditures referred to herein, or to reimburse its treasury because of earnings used to pay such expenditures; provided that only such expenditures as are properly chargeable to capital accounts under the accounting systems prescribed or adopted by the Commission may be financed with proceeds from the sale of stock referred to herein.

*It is hereby further ordered*, that the order in Decision No. 9989, dated January 12, 1922, as amended, shall remain in full force and effect except as modified by this tenth supplemental order.

Dated at San Francisco, California, this fifth day of May, 1923.

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DECISION No. 12043.

IN THE MATTER OF THE APPLICATION OF THE HUNTINGTON BEACH  
TELEPHONE COMPANY FOR PERMISSION TO ISSUE TWENTY-  
FIVE THOUSAND FIVE HUNDRED SHARES OF ITS CAPITAL  
STOCK.

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Application No. 8868.

Decided May 8, 1923.

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*Ernest Irwin*, for Applicant.

MARTIN, *Commissioner*.

OPINION.

In this application Huntington Beach Telephone Company asks permission to issue \$25,500 of its capital stock for the purpose of paying indebtedness and of financing the cost of additions and betterments.

Huntington Beach Telephone Company was organized on or about August 31, 1916, with an authorized capital stock of \$50,000 divided into 50,000 shares of the par value of \$1 each. The company reports that during 1921 its gross revenues were \$15,964.47 and during 1922 \$21,433.83. Operating expenses, taxes and other deductions were \$12,374.46 in 1921 and \$20,819.50 in 1922, and net profits \$3,590.01 in 1921 and \$614.33 in 1922. Applicant reported 271 subscribers on December 31, 1920, 432 on December 31, 1921, and 515 on December 31, 1922.

As of December 31, 1922, it reports assets and liabilities as follows:

<i>Assets.</i>	
Plant and equipment.....	\$50,175 80
Cash .....	371 37
Accounts receivable .....	2,018 82
Materials and supplies.....	1,027 59
Total assets .....	\$53,593 58
<i>Liabilities.</i>	
Capital stock .....	\$24,500 00
Accounts payable .....	20,516 42
Reserve for accrued depreciation.....	3,938 58
Other credit accounts .....	91 00
Surplus .....	4,547 58
Total liabilities .....	\$53,593 58

The company now proposes to issue and sell, at par, all of its unissued capital stock, amounting to \$25,500, for the purpose of financing in part expenditures for capital purposes made prior to December 31, 1922, and described in "Exhibit B" filed in this proceeding. It plans to use \$18,492.21 of the proceeds to pay open account indebtedness which was incurred in making capital additions and to use the remainder of the proceeds, \$7,007.79, to reimburse itself for moneys expended from income for capital purposes and not heretofore capitalized. The record, however, shows that applicant's surplus earnings invested in property, on December 31, 1922, amounted to only \$4,547.58, and I believe that applicant can be permitted to reimburse its treasury with proceeds from the sale of stock only to that extent. The remaining expenditures of \$2,460.21 for which applicant seeks reimbursement, apparently were made with moneys represented by its reserve for accrued depreciation, as testimony herein indicates that all of such reserve has been invested in fixed capital. The \$2,460.21 must be used by applicant to pay the cost of replacements for which its reserve for accrued depreciation is created, or temporarily invested in additions and betterments.

I herewith submit the following form of order:

#### ORDER.

Huntington Beach Telephone Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required by applicant;

*It is hereby ordered,* that Huntington Beach Telephone Company be and it is hereby authorized to issue and sell, for cash, at not less than par, \$25,500 of its capital stock for the purpose of paying indebtedness and of financing, in part, the cost of additions and betterments.

The authority herein granted is subject to further conditions as follows:

(1) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(2) The authority herein granted shall become effective on the date hereof and will expire on December 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of May, 1923.

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DECISION No. 12045.

IN THE MATTER OF THE APPLICATION OF H. CAMPONDONICO DRAYING COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE FREIGHT SERVICE AS A COMMON CARRIER OF PERISHABLE COMMODITIES BETWEEN SAN FRANCISCO AND IRVINGTON, CALIFORNIA.

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Application No. 8770.

Decided May 8, 1923.

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*Fred L. Grecher*, for Applicant.

*F. G. Prine*, for San Francisco and San Jose Fruit and Produce Transportation Company.

*Gwyn H. Baker*, for Pat Silvestri, T. J. Silva, Cunha Bros., A. J. Lawrence and J. E. Garcia, Protestants.

*George Baker*, for American Railway Express Company, Protestant.

BY THE COMMISSION.

**OPINION.**

The applicants herein are copartners and seek a certificate of public convenience and necessity to cover the operation of an automobile freight service for the transportation of perishable commodities between San Francisco and Irvington.

A public hearing on the application was held before Examiner Geary at San Francisco on April 24, 1923, and the matter having been duly submitted is now ready for a decision.

These applicants were originally engaged in the draying business in the city of San Francisco and early in the year 1917 commenced to haul perishable products in response to the demands of produce houses who found it impossible to secure by railroad the expeditious service necessary to get the farm products to the selling markets at the proper hour and in good condition. At first the service was very irregular and only rendered on special orders, but as the business increased the

scope of the activities was enlarged until at the present time four trucks are employed during the busy season of the year.

The testimony in this proceeding clearly indicated that a large number of shippers depend upon applicants' service and have been using it for a number of years past.

The American Railway Express Company, through its witness, presented exhibits setting forth the rates assessed between the points in competition with applicants, which rates are materially higher than those proposed by the truck company. It also presented an exhibit showing the trains upon which the express matter is handled. The service of the Express Company is different from that here proposed, inasmuch as the applicants pick up the products on the farms and deliver direct at an agreed hour to the commission merchants without the necessity of rehandling. Tonnage via the Express Company must, in most instances, be handled by the farmer to the railroad station, is subjected to a number of handlings enroute, the hour of arrival at the produce houses cannot be definitely determined, and the hour of shipping from the railroad station is not always convenient to the farmer. This different service at the higher rates does not appear to be in competition with the kind of service given by the applicants.

Only one truck company presented testimony in opposition, which was to the effect that it is operating in the same general territory and could arrange to handle all of the tonnage offered, but in view of the fact that applicants have been operating in competition with this particular protestant since the beginning, the hostility does not have any great weight.

Chapter 213, Statutes of 1917, provides that no certificate is required by a transportation company that has been operating in good faith since prior to May 1, 1917, and the testimony in this proceeding clearly indicates that applicants herein were operating prior to the effective date of the Statutes of 1917, although the common carrier service performed at the beginning was not always regular or between fixed termini. It would therefore appear that the purpose of this application is to bring the operations fully within the law by the filing of tariffs and time schedules.

After giving careful consideration to all the testimony and to the statements contained in the application, we are of the opinion and find that there is a public convenience and necessity for the service of these applicants. A certificate should be granted, the rates to be charged to be as set forth in Exhibit A attached to and made part of the application.

**ORDER.**

The H. Campodonico Draying Company (Garcia Bros. & Aiken and Henry Campodonico), having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight line as a common carrier between San Francisco and Irvington, via San Leandro, a public hearing having been held, the matter having been duly submitted, and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by these applicants of an automobile freight line as a common carrier between San Francisco and Irvington, via San Leandro and that a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

1. Applicants herein shall file within a period of not to exceed ten (10) days from date hereof their written acceptance of the certificate herein granted; shall file within a period not to exceed twenty (20) days from date hereof tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those filed as an exhibit and attached to the application herein, and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this eighth day of May, 1923.

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**DECISION No. 12046.**

IN THE MATTER OF THE APPLICATION OF MABEL IDELLA SKINNER,  
PART OWNER OF STINSON BEACH WATER COMPANY, FOR  
LEAVE TO SELL HER INTEREST THEREIN TO MAUDE E. STIN-  
SON, LILLIAN R. HENSILL AND EVE STINSON FITZHENRY.

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**Application No. 8974.****Decided May 8, 1923.**

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*Charles W. Slack and Edgar T. Zook, by Edgar T. Zook, for Applicants.*

**BY THE COMMISSION.**

**OPINION.**

Mabel Idella Skinner asks permission to sell her undivided interest in what is known as the "Stinson Beach Water Company" and the

"Stinson Ranch" located in Marin County, to Maude E. Stinson, Lillian R. Hensill and Eve Stinson Fitzhenry. The purchasers have asked permission to issue a three-year 6 per cent note for the principal sum of \$20,000, and execute a deed of trust to secure the payment of the note.

A hearing was held on this application before Examiner Fankhauser at San Francisco.

It is of record that Mabel Idella Skinner, Maude E. Stinson, Lillian R. Hensill, Eve Stinson Fitzhenry and Newman L. Fitzhenry are the owners as tenants in common of a water distributing system at Stinson Beach, Marin County, serving the residents on certain lands within the boundary of what is known as the "Stinson Ranch," the unsold portions of which are owned by applicants as tenants in common.

Mabel Idella Skinner is the owner of an undivided one-quarter interest in the water system and ranch. She has contracted to sell for the sum of \$10,000 cash her interests in the properties to Maude E. Stinson, Lillian H. Hensill, and Eve Stinson Fitzhenry.

There is now on the properties a first mortgage to secure the payment of an indebtedness of \$12,000 and a second mortgage to secure the payment of \$8,000. Applicants have made arrangements to borrow \$20,000 from the Bank of San Rafael and to issue to the bank a three-year 6 per cent note, the payment of which will be secured by deed of trust. The moneys obtained through the issue of this note will be used to refund existing indebtedness or to pay part of the purchase price agreed to be paid to Mabel Idella Skinner for her interest in the properties.

The testimony shows that no change in the management of the public utility water properties will result from the transfer of the properties.

#### ORDER.

A hearing having been held in the above entitled application and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by applicants and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that Mabel Idella Skinner be and she is hereby authorized to sell to Maude E. Stinson, Lillian R. Hensill and Eve Stinson Fitzhenry her undivided interest in the water system known as the "Stinson Beach Water Company" and referred to in this application.

*It is hereby further ordered*, that Maude E. Stinson, Lillian R. Hensill, Eve Stinson Fitzhenry and Newman L. Fitzhenry be and they are hereby authorized to issue to the Bank of San Rafael a three-year 6 per cent note for the principal sum of \$20,000 and to execute a deed of



trust substantially in the same form as the deed of trust filed in this proceeding and marked "Exhibit B."

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which such deed of trust may be subject.

2. The \$20,000 obtained through the issue of the three-year 6 per cent note to the Bank of San Rafael shall be used to refund existing indebtedness or to pay part of the purchase price of the properties, the transfer of which is herein authorized.

3. The price at which Mabel Idella Skinner is herein authorized to sell all properties shall not be urged before this Commission, or any other public body having jurisdiction, as a measure of the value of the properties for the purpose of fixing rates.

4. Maude E. Stinson, Lillian R. Hensill and Eve Stinson Fitzhenry shall file with the Railroad Commission within thirty days after its execution a copy of the deed under which they acquired title to the properties which Mabel Idella Skinner is herein authorized to sell to them.

5. Applicants shall keep such record of the issue, sale and delivery of the note herein authorized and of the disposition of the proceeds as will enable them to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein granted will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and such authority will expire on September 1, 1923.

Dated at San Francisco, California, this eighth day of May, 1923.

## DECISION No. 12051.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION AND RELOCATION AT GRADE OF LEAD AND SPUR TRACKS UPON, ALONG AND ACROSS NORTH POINT STREET, BETWEEN THE EMBARCADERO AND COLUMBUS AVENUE CROSSING INTERSECTING STREETS, IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

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Application No. 8941.

Decided May 8, 1923.

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BY THE COMMISSION.

ORDER.

Southern Pacific Company, a corporation, having on April 20, 1923, filed with the Commission an application for permission to relocate one lead track and one spur track at grade across Jones street and portions of North Point street near Jones street, to relocate one spur track at grade across a portion of North Point street between Jones street and Taylor street, to relocate one lead track at grade across Taylor street, to relocate one lead track at grade across Mason street, to construct one spur track at grade across Mason street, to relocate one lead track at grade across Powell street, to relocate two spur tracks at grade across a portion of North Point street between Powell and Stockton streets, to relocate one lead track at grade across Stockton street and to relocate one lead track at grade across Grant avenue in the city and county of San Francisco, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit (Ordinance No. 5801 N. S.) has been granted by the board of supervisors of said city and county of San Francisco for the relocation and construction of said crossings at grade, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said streets, and that this application should be granted subject to the conditions hereinafter specified:

*It is hereby ordered*, that permission be and it is hereby granted Southern Pacific Company to relocate one lead track and one spur track at grade across Jones street and portions of North Point street near Jones street, to relocate one spur track at grade across a portion of North Point street between Jones street and Taylor street, to relocate one lead track at grade across Taylor street, to relocate one lead track at grade across Mason street and to construct one spur track at grade across Mason street, to relocate one lead track at grade across Powell street, to relocate two spur tracks at grade across a portion of North Point street between Powell and Stockton streets, to relocate one lead track at grade across Stockton street and to relocate one lead track at

grade across Grant avenue in the city and county of San Francisco, State of California, described as follows:

*Crossing of Mason and North Point Streets.*

Beginning at a point on the easterly line of Mason street produced, said point being distant southerly 29.25 feet from the northerly line of North Point street; thence in a westerly direction crossing Mason street to a point on the westerly line of Mason street produced, said point being distant southerly 28.26 feet from the northerly line of North Point street.

Also beginning at a point on the easterly line of Mason street, said point being distant southerly 33.96 feet from the northerly line of North Point street; thence on a tangent in a southwesterly direction a distance of 6 feet to a point; thence on a curve to the left having a radius of 286.843 feet a distance of 30.04 feet; thence continuing in a southwesterly direction on a tangent a distance of 30 feet, more or less; thence on a curve to the right having a radius of 229.64 feet a distance of 5 feet, more or less, to a point on the westerly line of Mason street produced, said point being distant northerly 18 feet, more or less, from the southerly line of North Point street.

*Crossing of Taylor and North Point Streets.*

Beginning at a point on the easterly line of Taylor street produced, said point being distant southerly 27.43 feet from the northerly line of North Point street; thence in a westerly direction crossing Taylor street to a point on the westerly line of Taylor street produced, said point being distant southerly 29.62 feet from the northerly line of North Point street.

*Crossing of spur track on North Point Street between Powell and Stockton Streets.*

Beginning at a point in North Point street, said point being distant easterly 35 feet, more or less, from the easterly line of Powell street produced and distant southerly 26.79 feet from the northerly line of North Point street; thence through a No. 6 turnout to the left a distance of 49.73 feet; thence on a tangent in a north-easterly direction a distance of 6 feet; thence on a curve to the left to a point on the northerly line of North Point street; said point being distant easterly 163.5 feet from the easterly line of Powell street.

*Crossing of Powell and North Point Streets.*

Beginning at a point on the easterly line of Powell street produced, said point being distant southerly 26.79 feet from the northerly line of North Point street; thence in a westerly direction crossing Powell street to a point on the westerly line of Powell street produced, said point being distant southerly 28.93 feet from the northerly line of North Point street.

*Crossing of Grant Avenue and North Point Street.*

Beginning at a point on the easterly line of Grant avenue produced, said point being distant southerly 20 feet, more or less, from the northerly line of North Point street; thence in a westerly direction crossing Grant avenue to a point on the westerly line of Grant avenue produced, said point being distant southerly 21 feet, more or less, from the northerly line of North Point street.

*Crossing of Stockton and North Point Streets.*

Beginning at a point on the easterly line of Stockton street produced, said point being distant southerly 26.11 feet from the northerly line of North Point street; thence in a westerly direction crossing Stockton street to a point on the westerly line of Stockton street produced, said point being distant southerly 27.52 feet from the northerly line of North Point street.

*Crossing of Jones and North Point Streets.*

Beginning at a point in North Point street, said point being distant easterly 11.77 feet from the easterly line of Jones street produced and distant southerly 28.88 feet from the northerly line of North Point street; thence on a curve to the right having a radius of 636.785 feet crossing Jones street and North Point street to a point on the northerly line of North Point street, said point being distant westerly 108.44 feet from the westerly line of Jones street.

Also beginning at a point in North Point street, said point being distant easterly 65.51 feet from the easterly line of Jones street and distant southerly 28.88 feet

from the northerly line of North Point street; thence in a southwesterly direction on a curve to the left having a radius of 252.354 feet, a distance of 98.95 feet; thence in a southwesterly direction on a tangent a distance of 20 feet; thence in a southwesterly direction on a curve to the left having a radius of 252.354 feet, a distance of 42 feet, more or less, to a point in the southerly line of North Point street, said point being distant westerly 20-feet, more or less, from the westerly line of Jones street.

*Crossing North Point Street between Jones and Taylor Streets.*

Beginning at a point in North Point street, said point being distant easterly 100.84 feet from the easterly line of Jones street produced and distant southerly 28.88 feet from the northerly line of North Point street; thence in a southeasterly direction on a curve to the right having a radius of 252.354 feet, a distance of 53.59 feet to a point; thence compounding on a curve concave to the right having a radius of 131.4 feet, a distance of 72.32 feet to a point on the southerly line of North Point street, said point being distant westerly 196.75 feet from the westerly line of Taylor street.

All of the above as shown in red on the map (Coast Division Drawing 70002) attached to the application; said crossings to be relocated and constructed subject to the following conditions, viz:

(1) The entire expense of relocating and constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding three (3) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage there-over of vehicles and other road traffic.

(3) The tracks and grade crossings upon, along and across North Point street between The Embarcadero and Columbus avenue in the location shown in yellow on the map (Coast Division Engineer's Drawing 70002) attached to the application shall be abandoned and removed or relocated to the location shown in red on said map.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this eighth day of May, 1923.

28-24801

## DECISION No. 12062.

IN THE MATTER OF THE APPLICATION OF BAY CITIES TRANSPORTATION COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF ITS CAPITAL STOCK.

Application No. 8916.

Decided May 9, 1923.

*McCutchen, Olney, Mannon and Greene, by James D. Adams, for Applicant.*

SEAVEY, Commissioner.

## OPINION.

In this application Bay Cities Transportation Company asks permission to issue \$50,000 of its common and \$50,000 of its 8 per cent preferred stock. It asks authority to sell the stock to net 95 per cent of the par value thereof after deducting all costs of marketing the stock and use the net proceeds to pay indebtedness, to finance the cost of additional properties and to provide working capital.

Bay Cities Transportation Company, a corporation engaged in transporting freight between San Francisco and Oakland, was organized during June, 1916. The company was known originally as the "B" Line Transfer Company, the name being changed to the present one in 1920, by a decree of the superior court in and for the city and county of San Francisco. Applicant was incorporated with an authorized capital stock of \$50,000, divided into 50,000 shares of the par value of \$1 each, all shares being common. Recently the company has decided to increase its authorized stock to \$250,000, divided into \$150,000 of common and \$100,000 of preferred stock. The preferred stock will bear cumulative dividends at the rate of 8 per cent per annum, will be non-participating, will be redeemable at the company's option at 110 per cent of par value, and, with the consent of the company, may be exchanged for common stock at par for par. We believe that if the board of directors of the corporation conclude to redeem less than all of the preferred stock, the shares called for redemption shall be drawn by lot in a manner so as to avoid any favoritism. Applicant's Exhibit No. 1 should be modified accordingly.

The company reports its assets and liabilities as of December 31, 1922, as follows:

Fixed capital:	<i>Assets.</i>	
Organization, franchises -----	\$9,000 00	
Equipment -----	48,943 53	
Total fixed capital -----		\$57,943 53
Current assets:		
Cash -----	\$580 05	
Notes receivable -----	10,277 96	
Accounts receivable -----	18,503 91	
Materials and supplies -----	150 00	
Miscellaneous -----	1,727 39	
Total current assets -----		31,239 31
Other investments:		
Improvements on leased property -----	4,598 40	
Total assets -----		\$93,781 24
	<i>Liabilities.</i>	
Capital stock -----		\$50,000 00
Current liabilities:		
Notes payable -----	\$15,243 58	
Audited vouchers unpaid -----	833 33	
Miscellaneous accounts payable -----	8,338 92	
Total current liabilities -----		24,415 83
Deferred credit items:		
Reserve for accrued depreciation -----	\$7,848 86	
Other reserves -----	4,074 50	
Total deferred credit items -----		11,923 36
Capital stock surplus -----		9,000 00
Deficit -----		1,557 95
Total liabilities -----		\$93,781 24

The item "Capital stock surplus" does not represent accumulated earnings.

Applicant's properties consist of two 65 foot tugs; one equipped with a new Diesel engine of 100 h.p. and the other with a Standard gas engine of 85 h.p., three barges of 300 tons carrying capacity each, and incidental equipment, such as hand trucks, gangways and other apparatus. In addition, the company operates three rented barges.

The company proposes to use the proceeds received from the sale of its stock to provide working capital, to pay outstanding current indebtedness aggregating \$17,100, and to purchase equipment consisting of additional barges, similar to those now owned, at a cost of \$12,000 each, a new Diesel engine at a cost of \$10,000, and about 100 flat trucks for handling freight at an aggregate cost of \$12,000.

Applicant at the hearing was unable to advise the Commission definitely for what purposes it intends to use all the proceeds from the issue and sale of its stock. For this reason the order herein, while authorizing the issue of the stock, will provide that all proceeds, other

than those authorized to be expended by such order, be placed on deposit in a bank or banks and expended only for such purposes as the Commission may authorize in supplemental orders. When applicant desires to withdraw any moneys on deposit it must file with the Commission a supplemental petition showing the purposes for which it intends to use the moneys.

I herewith submit the following form of order:

**ORDER.**

Bay Cities Transportation Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that Bay Cities Transportation Company be and it is hereby authorized to issue \$50,000 of its common stock and \$50,000 of its 8 per cent preferred stock.

The authority herein granted is subject to the following conditions:

1. The stock shall be sold by applicant for cash to net applicant at least 95 per cent of the par value of the stock sold, after deducting all costs of marketing the stock. Of the gross receipts from the sale of the stock, applicant may expend an amount not to exceed 5 per cent of the par value of the stock sold, to pay the expenses including commissions, of marketing the stock. The sum of \$17,100 may be used to pay the indebtedness referred to in the foregoing opinion. The remaining proceeds shall be deposited by applicant in a bank or banks and expended only for such purposes as the Commission will authorize in supplemental orders.

2. Applicant's articles of incorporation shall provide, among other things, that if its board of directors conclude to redeem less than all the outstanding preferred stock, the shares called for redemption shall be drawn by lot in an impartial manner.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized, and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the date hereof but will apply only to such stock as may be issued on or before February 28, 1924.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of May, 1923.

## DECISION No. 12068.

IN THE MATTER OF THE APPLICATION OF SUTTER BUTTE CANAL COMPANY, A CORPORATION, FOR PERMISSION TO SELL THREE THOUSAND SHARES OF THE PREFERRED CAPITAL STOCK OF SAID CORPORATION, AND ALSO EIGHT HUNDRED FIFTY THOUSAND DOLLARS, FACE OR PAR VALUE, OF TWENTY-YEAR SIX AND ONE-HALF PER CENT GOLD BONDS.

Application No. 8893.

Decided May 12, 1923.

*Corbet and Selby, by Burke Corbet, for Applicant.*

*SEAVEY, Commissioner.*

## OPINION.

The Railroad Commission is asked to make an order authorizing the Sutter Butte Canal Company to issue and sell at 95 per cent of their face value and accrued interest \$850,000 of "Series A" 6½ per cent twenty-year first mortgage gold bonds; and to issue and sell \$300,000 par value of 7 per cent cumulative preferred stock at not less than \$95 per share, all for the purpose of paying or refunding indebtedness and providing funds to pay the cost of additions and betterments. The Commission is also asked to authorize the execution of a mortgage or deed of trust to secure the payment of the bonds and to authorize the issue of interim certificates to be exchanged for definitive bonds when such bonds are ready for delivery.

Applicant now has an authorized stock issue of \$1,250,000, of which \$1,219,800 is outstanding. Steps are being taken to increase applicant's authorized stock from \$1,250,000 to \$2,250,000, divided into \$1,250,000 of common and \$1,000,000 of 7 per cent cumulative preferred.

Applicant reports its outstanding indebtedness, which it seeks to pay or refund, in whole or in part, through the issue of bonds and stock, at \$1,126,718.06. This indebtedness consists of \$11,500 face value of Butte County Canal Company 5 per cent first mortgage bonds due in 1929; \$302,000 face value of Sutter Butte Canal Company 6 per cent first mortgage bonds due in 1931; \$450,000 face value of Sutter Butte Canal Company first refunding 6 per cent bonds due in 1939; \$200,000 face value of 8 per cent notes due September 1, 1923, the issue of which the Commission has heretofore authorized, and other notes amounting to \$163,218.06. Of the \$163,218.06 face value of notes, \$79,218.06 bear interest at the rate of 8 per cent per annum, \$75,000 at 6 per cent per annum and \$9,000 at 7 per cent per annum.

It is of record that the holders of substantially all of the \$200,000 of 8 per cent notes have agreed to accept applicant's 7 per cent cumulative preferred stock at par in payment of the notes. For the purpose of paying the notes the owners of which have not agreed to exchange



as well as for the purpose of paying in whole, or in part, the \$163,218.06 of other notes, applicant asks permission to issue and sell 7 per cent cumulative preferred stock at not less than \$95 per share.

The paying or refunding of applicant's outstanding bonds is made necessary at this time because of applicant's need for additional funds to pay for additions and betterments. At the present time there are three bond mortgage liens on some of applicant's properties. It is the intention of applicant to pay or refund all of its outstanding bonds and have the several mortgages or deeds of trust canceled and discharged of record. The testimony shows that applicant will not call for payment any of the bonds and that practically all the owners of the bonds have agreed to surrender them at par. While the refunding of the bonds will result in an increase in the annual interest charge of \$6,765, applicant will, through the refunding of the bonds, be relieved from sinking fund payments. On account of sinking fund payments under the Butte County Canal Company mortgage, applicant in 1922 expended \$345 and under the Sutter Butte Canal Company first mortgage \$13,650. Applicant's first refunding mortgage provides, that beginning in 1924, applicant shall pay to the trustee for sinking fund purposes, a sum equal to  $2\frac{1}{2}$  per cent of the bonds outstanding. Such payment in 1924 will amount to \$30,000. The mortgage or deed of trust which applicant asks permission to execute, does not provide for a sinking fund.

Applicant asks permission to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed with the Commission on May 10th. This mortgage or deed of trust will secure the payment of an authorized issue of \$2,000,000 of bonds, but provides that the bonds may be issued from time to time, in such series, and such denominations, bearing such rate of interest as may be deemed necessary and as may be authorized by the Railroad Commission. At this time, applicant asks permission to issue and sell \$850,000 of "Series A" bonds, such bonds to be dated March 1, 1923, to be payable March 1, 1943, to bear interest at the rate of  $6\frac{1}{2}$  per cent per annum, payable semi-annually, and to be redeemable on any first day of September, or any first day of March, prior to maturity, at par, accrued interest and a premium of 5 per cent.

In Decision No. 10372, dated April 26, 1922, (Vol. 21, Opinions and Orders of the Railroad Commission of California, p. 623) the Railroad Commission used as a rate base \$1,655,009.01. Certain expenditures by the company, for reasons stated in the decision, are not included in the rate base. It is clear that applicant expended for the acquisition and construction of properties an amount in excess of the indebtedness which it intends to pay or refund through the issue of bonds and stock covered by this application.

I herewith submit the following form of order:

**ORDER.**

Sutter Butte Canal Company, having applied to the Railroad Commission for permission to issue \$850,000 of bonds and \$300,000 of stock and execute a mortgage or deed of trust, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income and that this application should be granted as herein provided; therefore,

*It is hereby ordered, as follows:*

(1) Sutter Butte Canal Company may execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed with the Railroad Commission on May 10, 1923, provided that the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted, in so far as this Commission has jurisdiction, under the terms of the Public Utilities Act and is not intended as an approval of such mortgage or deed of trust as to such other legal requirements to which such mortgage or deed of trust may be subject.

(2) Sutter Butte Canal Company may issue and sell, at not less than 95 per cent of their face value and accrued interest, \$850,000 of "Series A" first mortgage 6½ per cent twenty-year bonds and use not exceeding \$763,500 of the proceeds to pay or refund the \$11,500 of Butte County Canal Company first mortgage bonds, the \$302,000 of Sutter Butte Canal Company first mortgage bonds and the \$450,000 of Sutter Butte Canal Company first refunding mortgage bonds, all of which are referred to in this application. The remaining proceeds must be deposited in a bank or banks and may be expended only for such purposes as the Railroad Commission may authorize by a supplemental order or orders. Pending the delivery of the definitive bonds, applicant may issue and sell at not less than 95 per cent of their face value and accrued interest \$850,000 of interim certificates exchangeable for definitive bonds. The proceeds from the sale of the interim certificates shall be deposited with a bank or banks until such time as the definitive bonds are delivered in exchange for the interim certificates, whereupon such proceeds may be used for the purposes indicated above. If definitive bonds are not delivered in exchange for the interim certificates, the moneys paid by the purchasers of such certificates shall be returned to the purchasers thereof.

(3) Sutter Butte Canal Company may issue and sell, at not less than \$95 per share net, 3000 shares (\$300,000 par value) of 7 per cent

cumulative preferred stock, such stock, or the proceeds thereof; to be used to pay—first, the \$200,000 of 8 per cent notes due September 1, 1923; and second, to pay as large an amount as possible of the other notes (\$163,218.06) referred to in its application.

(4) Sutter Butte Canal Company shall file, as soon as available, a certified copy of its amended articles of incorporation and three copies of its mortgage or deed of trust which it executes pursuant to the authority herein granted.

(5) Sutter Butte Canal Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted to issue stock and bonds will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act and will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of May, 1923.

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DECISION No. 12075.

IN THE MATTER OF THE APPLICATION OF ALTURAS ELECTRIC POWER COMPANY FOR AN ORDER AUTHORIZING PERMISSION TO RENEW CERTAIN PROMISSORY NOTES.

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Application No. 8905.

Decided May 15, 1923.

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SECURITIES—NOTES—WHEN VOID.—Promissory notes issued by a public utility without authorization of Railroad Commission are void. A utility is not authorized to issue notes to acquire stock in a mining company to procure additional business. Renewal note issued under such conditions should be canceled.

*B. F. Lynip*, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

Alturas Electric Power Company asks permission to issue notes in renewal of notes issued without permission from the Railroad Commission. The four notes which applicant asks permission to renew are payable to the following parties and in the following amounts:

Payee	Date of Original note	Date of Renewal note	Term of Renewal note	Rate of Interest	Amount
Jacob L. Gilcher-----	3-15-17	3-10-22	One year	8	\$1,450 00
D. E. Mulkey-----	8-15-15	9-27-20	One year	8	1,975 00
B. F. Lynip-----	7- 1-16	4-25-22	Demand	8	1,270 00
B. F. Lynip-----	10- 6-19	2-27-23	Demand	8	6,150 00

All of the renewal notes are void because their issue has not been authorized by the Railroad Commission, but we find that the first three notes were originally issued for proper purposes and that the debt represented by them should be refunded through the issue of notes authorized by the Commission.

The note for \$6,150 was issued to acquire 200,000 shares of the capital stock of Hess Gold Mines Company. Of this stock, applicant now owns 130,000 shares, 70,000 shares having been disposed of to protect the interests of applicant in the company. It is alleged that applicant acquired an interest in the mining company for the purpose of endeavoring to procure additional business. To date no additional business has been obtained by applicant as a result of the purchase of the mining company stock. Even if such business had been obtained, we do not believe that a utility is authorized to issue notes to acquire stock of a mining company under the circumstances outlined in this proceeding. The Commission will not authorize the refunding of the \$6,150 of indebtedness through the issue of a new note. The note which applicant issued to B. F. Lynip on February 27, 1923, should be canceled. It is, as said, void under the provisions of the Public Utilities Act.

I herewith submit the following form of order:

#### ORDER.

Alturas Electric Power Company, having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and the Commission being of the opinion that this application, in so far as it relates to the issue of notes aggregating \$4,695 face value, should be granted and that permission to issue a note for \$6,150 should be denied without prejudice; therefore,

*It is hereby ordered*, that Alturas Electric Power Company be and it is hereby authorized to issue notes of the aggregate face value of \$4,695.

*It is hereby further ordered*, that the request of Alturas Electric Power Company for permission to issue a \$6,150 demand note to B. F. Lynip be and the same is hereby denied without prejudice.

The authority herein granted to issue notes is subject to the following conditions:

1. Of the notes herein authorized to be issued, applicant may issue a one-year note for the sum of \$1,450 to Jacob L. Gilcher; a one-year note for the sum of \$1,975 to D. E. Mulkey; and a demand note for the sum of \$1,270 to B. F. Lynip; all of such notes to bear interest at the rate of 8 per cent per annum and to be issued for the purpose of refunding an indebtedness in an amount equal to the respective notes, and referred to in the foregoing opinion.

2. Applicant shall file with the Railroad Commission within thirty days after the issue of the several notes, a copy of each of the notes issued under the authority herein granted.

3. The authority herein granted to issue notes will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is \$25.

The foregoing opinion is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of May, 1923.

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DECISION No. 12076.

IN THE MATTER OF THE APPLICATION OF THE YELLOW PENNANT STAGES (F. H. GRIFFIN AND A. P. CLEMENT, OWNERS) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND AUTOMOBILE STAGE SERVICE NOW OPERATING BETWEEN KING CITY AND SALINAS, TO SAN JOSE AND INTERMEDIATE POINTS NORTH OF SALINAS.

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Application No. 8283.

Decided May 15, 1923.

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*Gwyn H. Baker*, for Applicant.

*J. E. McCurdy* and *C. F. Wren*, for Pickwick Stages (Northern Division), Incorporated, Protestant.

*A. B. Roehl* and *E. Stern*, for American Railway Express Company, Protestant.

*H. H. Gogarty*, for Southern Pacific Company, Protestant.

BY THE COMMISSION.

OPINION.

F. H. Griffin and A. P. Clement, copartners doing business under the fictitious name of Yellow Pennant Stages, apply to the Railroad Commission for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers and packages between Salinas and San Jose in connection with their existing operation between King City and Salinas. Applicants propose to carry no passengers locally between San Jose and Gilroy and intermediate points.

Public hearings in the above entitled proceeding were held before Examiner Satterwhite at Salinas and San Francisco, the matter was submitted and is now ready for decision.

Applicants called in support of their petition a number of witnesses at both Salinas and San Francisco and also submitted a number of exhibits, a detailed review of which we do not believe necessary in this decision.

Pickwick Stages (Northern Division), Incorporated, protestant, also called a considerable number of witnesses at both Salinas and San Francisco, some of these witnesses being in support of the application of

Pickwick Stages (Northern Division), Incorporated, and others in protest to the granting of the application of the Yellow Pennant Stages.

Yellow Pennant Stages are now operating stage service between King City and Salinas and also between King City and Coalinga. The principal contention in the present proceeding was that there exists a considerable demand on the part of the traveling public for an extension of the Yellow Pennant Stage service from King City and Salinas to Gilroy and San Jose, due to the fact that existing service is either inadequate to properly care for traffic requirements or that the stage connections offered at Salinas are inconvenient and burdensome to passengers obliged to transfer when traveling either north or southbound through Salinas.

There is operated in the territory in question at the present time local passenger and package service on the through stages operated by the Pickwick Company between San Francisco and Los Angeles, also a local service by the Pickwick Company under the name of White Star Stages, which operation was recently taken over from Henry T. Campbell. In addition, the Highway Stages operate between San Jose and Gilroy, although this operation is not primarily affected, in view of the amendment submitted by applicants herein to the effect that they propose to handle no business locally between such points. The Southern Pacific Company and the American Railway Express Company also operate frequent daily service between San Jose, Gilroy, Salinas and King City.

The Pickwick Stages, protestant, submitted a number of exhibits showing total seating capacity of their cars operated in the territory, total number of passengers carried and the number of vacant seats available during the month of January, 1923. On the through stages of Pickwick Company operated northbound out of Salinas, they carried a total number of 3473 seats, 1669 passengers, 1804 vacant seats; the minimum vacant seats being 32 on January 3d and the maximum 91 on January 28th. The same company operated on the through stages, southbound out of San Jose, during the month of January, 1923, a total of 2119 seats, carried 1289 passengers, 830 vacant seats; the minimum number of vacant seats in any one day being 12 on the twenty-first and the maximum 55 on the twenty-eighth.

As stated above, we do not believe that it is necessary to review in detail, the oral testimony or the exhibits introduced by both applicants and protestants, as it clearly appears from the record in this proceeding that public convenience and necessity does not require the establishment of service as proposed by applicants herein. Further, in view of the fact that in addition to the service of the Pickwick Company on their through cars, there is the local service of the White Star Stages operated frequently between San Jose and Salinas and the service of

the Southern Pacific which admittedly has sufficient equipment to handle all passenger traffic offered.

**ORDER.**

Public hearings having been held in the above entitled application, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this fifteenth day of May, 1923.

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**DECISION No. 12077.**

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, INCORPORATED, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE SERVICE AS A COMMON CARRIER OF PASSENGERS AND EXPRESS MATTER, BETWEEN PASADENA, CALIFORNIA, AND SAN DIEGO, CALIFORNIA, VIA EITHER LOS ANGELES, OR LAMANDA PARK AND SAN GABRIEL BOULEVARD.

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Application No. 8594.

Decided May 15, 1923.

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*Warren E. Libby*, for Applicant.

*E. T. Lucey*, for Atchison, Topeka and Santa Fe Railway, Protestant.

*F. E. Watson*, for Southern Pacific Railway, Protestant.

*T. A. Woods*, for American Railway Express, Protestant.

*K. F. Beyerle*, for Murrietta Mineral Hot Springs Stage Line, Protestant.

*Kidd and Hardy* by *H. W. Kidd*, for Motor Transit Company and Dillingham Transportation Company, Protestants.

*C. W. Cornell* and *H. O. Marler*, for Pacific Electric Railway, Protestant.

BY THE COMMISSION.

**OPINION.**

Pickwick Stages, Incorporated, has made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile service as a common carrier of passengers and express matter, between Pasadena and San Diego, via either Lamanda Park and San Gabriel Boulevard or Los Angeles.

A public hearing was held by Examiner Williams at Los Angeles.

Applicant now maintains extensive service between Los Angeles and San Diego and it is proposed to extend this service via its coast route only to the city of Pasadena in order that those seeking through automobile transportation between termini or points south of Santa Ana, may do so without change of vehicle. At present, those in Pasadena who seek automobile transportation to points south of Santa Ana, must either use the rail service of protestant Pacific Electric Railway to Los Angeles or the auto stage service of the Dillingham Transportation Company to a junction with protestant Motor Transit Company's service or service of applicant at either Whittier Boulevard near

Montebello or at Whittier. Applicant proposes to establish a terminus in Pasadena and there receive passengers for through trips or return journeys.

Applicant, by several witnesses, made sufficient proof of the need of such a service. It was shown by several witnesses, that there has been daily inquiry at various places for transportation to San Diego by automobile. Such inquiries were made six to eight times daily at the ticket office of the Union Stage Depot at Pasadena, according to the testimony of E. E. Hamilton, who is in charge of the station. This witness testified that the combination service of protestants Dillingham Transportation Company and Motor Transit Company was offered all inquirers but was rejected because of a change of cars. He further testified that joint tickets for such a journey were on sale at the Pasadena office from December, 1921, to January, 1923, when the tickets were returned to the carrier, but that none was sold for the reason that prospective patrons declined anything except through service without change. Henry L. Robinson, a restaurant keeper and David MacLaren, an auto body manufacturer, testified that there were almost daily inquiries at their places for auto stage service to San Diego. Betty Bishop, a former ticket agent of applicant at the Union Stage Depot at San Diego testified that there were daily inquiries there for through auto stage transportation from San Diego to Pasadena. From the testimony of these witnesses it is clear that there is a demand for the character of service proposed by applicant. It seems equally clear that the establishment of such service will bring no injury to protestants Dillingham Transportation Company or Motor Transit Company, neither of which disputed the fact that no use of their joint service had been made for a period of thirteen months preceding January, 1923, or since.

Protestant Pacific Electric Railway maintains an admittedly efficient service between Pasadena and Los Angeles, its station at Los Angeles being only a block from the Union Stage Depot, where both the services of applicant and protestant Motor Transit Company are available. Use of this rail service, however, requires change of cars which, according to the testimony herein, is the very thing a large element of the traveling public wishes to avoid. Establishment of applicant's service will enlarge the public's choice of service and is not likely to injuriously effect protestants Pacific Electric Railway or Motor Transit Company in any but the most nominal way. In a less degree will it affect protestants Atchison, Topeka and Santa Fe Railway and Southern Pacific Railway.

As there was no proof herein that there is a need of express service, this phase of applicant's proffer may be dismissed without further consideration.



Applicant desires two routes, the first via Los Angeles, to be used regularly, and the other via Colorado Street and San Gabriel Boulevard to be used only by fully loaded cars. In view of the fact that applicant's main purpose is to provide through service between Pasadena and San Diego, and points south of Santa Ana, but not including Santa Ana, it is our opinion that this service should be accomplished by a direct route, avoiding urban congestion at Los Angeles and the order will provide for such a route.

#### ORDER.

Pickwick Stages, Incorporated, having applied to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile stage service as a common carrier of passengers and express matter between Pasadena and San Diego, via either Los Angeles or Lamanda Park and San Gabriel Boulevard, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of an automobile stage line for the transportation of passengers, but not of express matter, as proposed, by applicant herein, over and along the following route:

From its terminus in Pasadena via Colorado Street to San Gabriel Boulevard, thence via San Gabriel Boulevard and Pico Road to Whittier Boulevard, thence over Whittier Boulevard and Whittier Road to Santa Ana, thence over the Coast Highway to San Diego, and returning via the same identical route,

and that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

I. That applicant, Pickwick Stages, Incorporated, shall file within fifteen (15) days from date hereof, its written acceptance of the certificate herein granted, and shall file within thirty (30) days of the date hereof, duplicate tariff of rates and time schedules, in accordance with General Order No. 51 of the Railroad Commission and that it will begin operation within thirty (30) days from date hereof.

II. That applicant, Pickwick Stages, Incorporated, shall not sell, lease, assign or discontinue the service herein authorized, unless such sale, lease, assignment, or discontinuance shall have been authorized by the Railroad Commission.

III. That no vehicles shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this fifteenth day of May, 1923.

## DECISION No. 12078.

IN THE MATTER OF THE APPLICATION OF HAROLD R. MORGAN FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 8852.

Decided May 15, 1923.

*Harold R. Morgan, in propria persona.*

BY THE COMMISSION.

## OPINION.

In this application, Harold R. Morgan requests authority to operate a public utility water plant and to distribute and sell water for domestic purposes on 80 acres of land, now being subdivided into approximately 500 lots, and more particularly described as bounded on the north by Ninety-sixth street, on the east by San Pedro street, on the south by 104th street and on the west by Main street, Los Angeles County.

A public hearing in this matter was held at Los Angeles before Examiner Williams. Due notice thereof was published and all interested parties given an opportunity to be present and be heard.

The testimony shows that a well and pumping plant were originally installed to serve irrigation water to this tract of land and that it is now proposed to enlarge the storage tank to 10,000 gallons capacity, to elevate the tank 45 feet above ground and to serve water for domestic purposes, as an aid in the sale of lots. At the present time, there are about 35 consumers on the system to whom the water is furnished free of charge and it is the desire of applicant to enter the public utility business and charge the consumers a flat rate of \$1.50 per month. At the hearing, the request was made that an optional meter rate also be established by the Commission.

No other public utility serves water in the vicinity, and no one appeared to oppose the granting of the certificate. It therefore appears that the application should be granted and a schedule of rates established which are comparable to the rates charged by other utilities operating in the vicinity and under similar conditions.

## ORDER.

Harold R. Morgan, having made application as entitled above, a public hearing having been held thereon, the matter having been submitted and being now ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that Harold R. Morgan operate a water system for the purpose of supplying water for domestic

purposes on the tract of land lying between Main and San Pedro streets and Ninety-sixth and 104th streets in Los Angeles County; and

*It is hereby ordered*, that Harold R. Morgan be and he is hereby authorized and directed to file with this Commission within twenty (20) days from the date hereof, the following schedule of rates to be effective for all water delivered to consumers subsequent to June 15, 1923:

#### MONTHLY FLAT RATES.

For residence of five rooms or less.....	\$1 00
For each additional room over five.....	10
For each bath tub .....	25
For each toilet .....	25
For each garage and one automobile.....	25
For each additional automobile .....	15
For each barn with not more than one horse or cow.....	15
Sprinkling or irrigating lawns or gardens, for each month during which water is used, per 100 square feet surface irrigated.....	05
Soda fountains either alone or in connection with other business.....	1 50
Monthly minimum flat rate.....	1 50

All other use to be charged for at meter rates.

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility the entire cost shall be borne by the utility. If installed at the request of the consumer the cost of meter and installation shall be advanced by the consumer to the utility and the money so advanced shall be refunded to the depositor as credits on monthly bills for water furnished at the rate of thirty per cent of the total amount of such monthly bills.

#### MONTHLY METER RATES.

500 cubic feet or less.....	\$1 25
500 to 1000 cubic feet, per 100 cubic feet.....	20
All in excess of 1000 cubic feet, per 100 cubic feet.....	15

#### MONTHLY MINIMUM CHARGES.

$\frac{3}{4}$ -inch meter .....	\$1 25
$\frac{1}{2}$ -inch meter .....	2 00
1-inch meter .....	3 00
1 $\frac{1}{2}$ -inch meter .....	6 00
2-inch meter .....	10 00

*It is hereby further ordered*, that Harold R. Morgan be and he is hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this fifteenth day of May, 1923.

## DECISION No. 12079.

IN THE MATTER OF THE APPLICATION OF THE L. W. GREGG WATER  
SYSTEM FOR CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY TO SERVE WATER.

Application No. 8880.

Decided May 15, 1923.

*L. W. Gregg, in propria persona.*

BY THE COMMISSION.

## OPINION.

A public hearing was held by Examiner Williams at Los Angeles on the above entitled application, in which L. W. Gregg requests authority to operate a public utility water plant under the name and style of the L. W. Gregg Water System, and to distribute and sell water for domestic purposes on Tracts Nos. 4606, 3175 and 6318, being a portion of Tract No. 2711, Los Angeles County.

It appears from the testimony that applicant desires to furnish water for domestic purposes to his own ranch, which he is now subdividing, and to two adjacent tracts. The system consists of three tested wells, a tank of 25,000 gallons capacity on a 60-foot tower, and a distribution system of 4-inch and 6-inch cast-iron pipe.

There is no other utility in the vicinity from which such service can be had, and no one appeared to oppose the granting of the certificate.

The rates as set forth in the application are reasonable compared to the rates of other utilities operating in the vicinity and applicant admits that they can not be expected to produce a return upon the investment until the tracts build up.

A careful consideration indicates that the application should be granted.

## ORDER.

The L. W. Gregg Water System, having made application as entitled above, a public hearing having been held thereon, the matter having been submitted and being now ready for decision;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that L. W. Gregg operate a water utility under the name and style of the L. W. Gregg Water System for the purpose of supplying water for domestic purposes on Tracts Nos. 4606, 3175 and 6318, Los Angeles County; and

*It is hereby ordered*, that the L. W. Gregg Water System be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following

schedule of rates, to be effective for all water delivered to consumers subsequent to June 15, 1923:

MONTHLY MINIMUM CHARGE.	
$\frac{5}{8}$ -inch meter	\$1 25
$\frac{3}{4}$ -inch meter	1 75
1 -inch meter	2 00
1 $\frac{1}{4}$ -inch meter	4 00
2 -inch meter	6 00
3 -inch meter	7 50
4 -inch meter	10 00
6 -inch meter	25 00

MONTHLY METER RATES.	
0 to 500 cubic feet, per 100 cubic feet	\$0 25
500 to 5000 cubic feet, per 100 cubic feet	13
All over 5000 cubic feet, per 100 cubic feet	10

Dated at San Francisco, California, this fifteenth day of May, 1923.

#### DECISION No. 12080.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO, STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT SIX GRADE CROSSINGS OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY BETWEEN CHALFANT AND THE STATE LINE IN SAID COUNTY.

Application No. 8909.

Decided May 15, 1923.

*Charles L. Hayes*, for Applicant.

BY THE COMMISSION.

#### OPINION.

This is an application under section 2694 of the Political Code wherein the board of supervisors of the county of Mono asks for permission to construct six crossings at grade over the narrow-gauge line of Southern Pacific Company between Chalfant Station and the state line in Mono County.

A public hearing was held on this matter in Bridgeport, May 2, 1923, before Examiner Satterwhite.

Mono County is constructing a public road from the Inyo County line through Chalfant Valley, Hammil Valley and Benton Station to the Nevada state line, where it will connect with the public road to Mina and Reno, Nevada. The Southern Pacific operates and maintains a single track narrow-gauge railroad through this same territory.

The topography and the location of farms are such that the proposed road is to cross the railroad track at six different places within a total distance of about twenty-seven miles.

The existing public road through this territory is in poor condition and not properly located for permanent improvement. This existing road crosses the railroad at five locations and these crossings should be closed to public use and travel. The applicant agrees to the closing of these crossings if this application is granted. The new road, when completed, will make an all-winter auto route between Reno, Nevada, and Los Angeles, California. The property owners adjacent to the road are all in favor of the new road and have donated the right of way.

The Southern Pacific Company has signified by letter that it has no objection to the installation of the crossings at grade, providing that the crossings be made at approximately ninety degrees with the track; that the applicant assume all the expense of construction of the crossings and installation of any necessary protective devices; and, that the applicant will legally close and cause to be abandoned for all public purposes, except railroad use by the Southern Pacific, the existing crossings in the vicinity of the new crossings.

As the road is located, crossing No. 1, south of Chalfant Station, would make an angle of about eighteen degrees to the track. The evidence shows that the land in that vicinity is level and that the crossing would be less hazardous if constructed at right angles to the track just north of cattle guard No. 499-A or a distance northerly from the proposed location about 400 feet. Crossing No. 3 near mile post 487, crossing No. 4 near Hammil Station, and crossing No. 6 north of Denton Station are properly located as laid out on the ground. Crossing No. 2 near mile post 495 is located at an angle of about twenty-six degrees to the track, and testimony shows that if this crossing were changed to right angles with the track, the grade of approach would be on so steep a grade as to make the crossing more dangerous than it would be as laid out. This crossing, therefore, should be constructed as located on the ground. Crossing No. 5, south of Denton Station, is laid out at an angle of approximately fourteen degrees to the track. The country in that vicinity is comparatively level and the crossing would be much less hazardous if constructed at right angles to the track. The applicant agreed to change the angles at crossings Nos. 1 and 5.

Southern Pacific Company operates one mixed train in each direction daily, except Sunday, and there are three light engine movements southbound per week. A maximum of approximately one hundred vehicles will probably pass over the crossings in one day.

The view of approaching trains is good at all the crossings and no protective devices, other than the usual crossing and advance warning signs, appear to be necessary at any of the crossings at this time.

It further appears that it is not reasonable nor practicable to avoid grade crossings with the track of Southern Pacific Company and that this application should be granted.

#### ORDER.

The board of supervisors of the county of Mono having made application for permission to construct a public highway at grade across the track of Southern Pacific Company, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby found as a fact that public convenience and necessity require the establishment of public crossings at grade at the points hereinafter described; therefore,

*It is hereby ordered*, that permission be and it is hereby granted the board of supervisors of the county of Mono, State of California, to construct a public road at grade across the track of Southern Pacific Company at six locations described as follows:

*Crossing No. 1*—Beginning at the southwest corner of section 16, township 5 south, range 33 east, M. D. B. and M., thence 1475 feet, more or less, east along south line of said section 16 to the center line of Southern Pacific Company's track, thence 304 feet, more or less, northerly along said center line to the point of crossing. Said point of crossing being at or near engineer's station 11153 or 30 feet, more or less, northerly from cattle guard 499-A and being located in the southwest quarter of said section 16.

*Crossing No. 2*—Beginning at the southeast corner of the southwest quarter of section 30, township 4 south, range 33 east, M. D. B. and M., thence 550 feet, more or less, north along east line of said southwest quarter of section 30 to the center line of Southern Pacific Company's track, thence 570 feet, more or less, northwesterly along said center line to the point of crossing. Said point of crossing being located at or near engineer's station 10906 and being 1980 feet, more or less, distant northwesterly from mile post 495 and located in the said southwest quarter of section 30.

*Crossing No. 3*—Beginning at the northwest corner of the northwest quarter of section 24, township 3 south, range 32 east, M. D. B. and M., thence 75 feet, more or less, east along the north line of said section 24 to the center line of the Southern Pacific Company's track, thence twenty feet, more or less, southerly along said center line to point of crossing. Said point of crossing being located at or near engineer's station 10489 and being distant 1406 feet, more or less, northerly from mile post 487. Said point of crossing is located in the northwest quarter of said section 24.

*Crossing No. 4*—Beginning at the southwest corner of the southeast quarter of section 28, township 2 south, range 32 east, M. D. B. and M., thence 1840 feet, more or less, along the west line of said southeast quarter of section 28 to the center line of Southern Pacific Company's track, thence 606 feet, more or less, southeasterly along said center line to the point of crossing. Said point of crossing being located at or near engineer's station 10211 and being distant southerly 2417 feet, more or less, from mile post 481. Said point of crossing is located in the southeast quarter of said section 28.

*Crossing No. 5*—Beginning at the northeast corner of section 17, township 2 south, range 32 east, M. D. B. and M., thence 1537 feet, more or less, along north line of said section 17 to the center line of Southern Pacific Company's track, thence 147 feet, more or less, southerly along said center line to the point of crossing. Said point of crossing being at or near engineer's station 10055 and 2517 feet, more or less, northerly from mile post 479. Crossing is located in northeast quarter of said section 17.

*Crossing No. 6*—Beginning at the center of section 8, township 1 south, range 32 east, M. D. B. and M., thence 525 feet, more or less, east along east and

west center line of said section 8 to the center line of Southern Pacific Company's track, thence 850 feet, more or less, southerly along said center line to the point of crossing. Said point of crossing being at or near engineer's station 9706 and distant 455 feet, more or less, northerly from mile post 472. Crossing is located in the southeast quarter of said section 8.

Said crossings to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossings shall be borne by applicant. The cost of their maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossings between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossings shall be constructed of width not less than twenty-four (24) feet and with grades of approach not greater than four per cent; shall each be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) The crossings shall be constructed with the following angles to the track:

Crossing No. 1-----	90 degrees.
Crossing No. 2-----	26 degrees.
Crossing No. 3-----	81 degrees, 31 minutes.
Crossing No. 4-----	44 degrees, 22 minutes.
Crossing No. 5-----	90 degrees.
Crossing No. 6-----	68 degrees, 27 minutes.

(4) The following described existing public crossings shall be legally abandoned and effectively closed to public use and travel:

*Crossing A*—Located 2000 feet, more or less, southerly from mile post 497 and in the northwest quarter of section 4, township 5 south, range 33 east, at or near engineer's station 10998.

*Crossing B*—Located 3147 feet, more or less, southerly from Shealy Station, or 549 feet, more or less, northerly from mile post 492 in northeast quarter of section 13, township 4 south, range 32 east, M. D. B. and M.

*Crossing C*—Located approximately 1000 feet southerly along Southern Pacific Company's track from mile post 484.

*Crossing D*—Being distant 95 feet northwesterly along center line of Southern Pacific Company's track from crossing No. 3.

*Crossing E*—Beginning at the center line of Southern Pacific Company's main track opposite the north end of Benton depot building, thence 743 feet, more or less, southerly along said center line to point of crossing. Said point of crossing being distant 524 feet, more or less, southerly from mile post 476.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(6) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and pro-



tection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days from the making thereof.

Dated at San Francisco, California, this fifteenth day of May, 1923.

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DECISION No. 12085.

PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED,  
A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION, AND CEMENT,  
TOLENAS AND TIDEWATER RAILROAD COMPANY, A CORPORATION.

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Case No. 1665,

Decided May 15, 1923.

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BY THE COMMISSION.

ORDER OF DISMISSAL.

In this proceeding the Pacific Portland Cement Company, Consolidated, a corporation, presented four distinct issues for the Commission's consideration.

1. The rate on crude lime rock from Flint to Tolenas.
2. The rate on cement from Cement Station to San Francisco and the Bay points.
3. The milling in transit of lime rock moving from Flint to Cement in connection with a rate on cement from Flint to San Francisco and the Bay points.
4. The payment of reparation on shipments of lime rock moved from Flint to Tolenas.

The proceeding was submitted March 15, 1922, after hearings for eleven days, at which seventy-nine exhibits were presented and testimony given covering 874 pages of transcript.

Following the filing of initial briefs the complainant and the defendants entered into a discussion looking to an informal adjustment of the controversy.

The testimony and exhibits presented at the hearings were directed mainly to the reduction in rates on the crude lime rock from Flint to Tolenas, which rate was reduced to 50 cents per ton on March 8, 1923, the rate contended for by the complainant. Under date, March 21, 1923, the Southern Pacific Company requested authority to make reparation adjustments to a basis of 60 cents per ton against certain

shipments of lime rock moving prior to July 1, 1922, the date when the rate was reduced from 70 cents to 60 cents. The Commission authorized reparation adjustments on its Informal Docket, March 26, 1923.

By the reduction of the rate to 50 cents a ton and the payment of the reparation, demands of the complainant in connection with the crude lime rock rates were fully satisfied. Under date, May 7, 1923, the complainant advised the Commission that it has no objections, at this time, to a dismissal of the proceeding, without prejudice, as to all of the other allegations.

Now, therefore, it appearing to the Commission that this complaint should be dismissed;

*It is hereby ordered*, that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this fifteenth day of May, 1923.

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DECISION No. 12090.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES (NORTHERN DIVISION), A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE SERVICE BETWEEN SAN FRANCISCO, CALIFORNIA, AND THE CALIFORNIA-OREGON LINE NORTH OF COLE, CALIFORNIA, AND INTERMEDIATE POINTS.

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Application No. 5081.

Decided May 16, 1923.

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*Chas. F. Wren* and *N. C. Folsom*, for Respondent.

BY THE COMMISSION.

**OPINION ON ORDER TO SHOW CAUSE.**

Under date of November 10, 1922, the Railroad Commission issued an order to show cause in the above entitled proceeding directed against Pickwick Stages (Northern Division), Incorporated, a corporation, wherein said corporation was directed to appear before the Commission and show cause, if any it had, why the certificate heretofore issued to it authorizing the operation of automobile stage service between San Francisco and the California-Oregon line, north of Cole, should not be revoked, due to violation of the conditions of said order.

Public hearings were held before Examiner Satterwhite on November 27 and December 11, 1922, at which time the matter was submitted and is now ready for decision.

The order to show cause was based upon certain verified documents in possession of the Commission, to the effect that the Pickwick Stages (Northern Division), a corporation, had permitted the operation of

cars by individuals, which cars were not leased by the corporation, but were operated independently and in violation of the provisions of the order granting said certificate, which order provided that no vehicle could be operated by the certificate holder, unless such vehicle was owned or leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

At the hearings upon this proceeding, evidence was submitted by respondent in which it was claimed that all cars operated on the San Francisco-Portland line which were not owned outright by the corporation, were leased in accordance with the rules and regulations of the Railroad Commission, either under written lease, several of which were submitted at the hearing by respondent, or under alleged verbal leases, which the president of respondent company claimed were entered into between his managers of this division or himself and the owners of the respective cars operated. President of respondent company testified that several of the lessors of cars to respondent were appointed as managers of the San Francisco-Portland division of the Pickwick Stages (Northern Division), Incorporated; that as managers, they received no definite or fixed salary other than that paid to them as drivers of their respective cars under lease to the company, but that an understanding existed whereby they were to receive any profits accruing from the operation of the San Francisco-Portland service. A witness for respondent was unable to state whether or not this operation had resulted in a profit or a deficit during the period of 1922, but did testify that the corporation would stand any loss resulting in the operation, although the so-called managers would receive all profits, if any. Such methods of conducting a transportation company business can not and will not be approved by this Commission.

While the testimony of the president of respondent to the effect that all cars operated, were leased to the corporation, either through written instruments or by verbal lease, this statement was not corroborated by any supporting witness. The Railroad Commission has established definite rules and regulations governing the operation of stage lines, one of which rules is that no cars shall be operated unless such cars are owned by the holder of a certificate or leased outright for a fixed sum on a trip or term basis, the driver of such vehicle to be an employee of the certificate holder. When the holder of a certificate conducts operation solely through individuals owning their individual cars and claims before this Commission that such cars are properly leased to the holder of the certificate in accordance with the above mentioned rule and can not support such claim through the submission of written leases, the Commission will assume that they are

not properly leased, particularly when the testimony of one individual can not be supported by corroborating witnesses.

In view of the fact, however, that such testimony was not contradicted, the order herein will not provide for revocation of the certificate in question.

**ORDER.**

Public hearings having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised;

*It is hereby ordered*, that the Pickwick Stages (Northern Division), Incorporated, shall on and after twenty days from date of this order operate all leased cars on its San Francisco-Portland division only under written leases, true copies of said written leases to be filed with the Railroad Commission when they are entered into for a term of ten (10) days or more. In addition thereto, any agreements with garages, machine owners or other individuals or companies with reference to leasing of automotive vehicles upon short notice for a term of less than ten days must also be represented by a written instrument, which written instrument shall state the full terms of the agreement under which cars of varying carrying capacity are furnished and the amount paid therefor upon a trip or term basis, a true copy of said written agreement to be filed with the Railroad Commission.

*It is hereby further ordered*, that in all other respects the order to show cause issued by this Commission under date of November 10, 1922, be and the same hereby is dismissed.

Dated at San Francisco, California, this sixteenth day of May, 1923.

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DECISION No. 12091.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN VALLEY TELEPHONE COMPANY FOR AN ORDER PERMITTING SUSPENSION OF OPERATION, ABANDONMENT OF LINES, AND DISPOSAL OF ITS PROPERTY.

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Application No. 8820.

Decided May 18, 1923.

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W. M. Conley, of Lindsay and Conley, for Applicant;

F. B. Fair, for the mutual association of the subscribers of the San Joaquin Valley Telephone Company.

WHITTLESEY, Commissioner.

**OPINION.**

This is a proceeding in which San Joaquin Valley Telephone Company, hereinafter referred to as applicant, requests authority of this Commission to suspend operation, abandon its lines and dispose of all of its property.

A public hearing was held in this proceeding at Fresno on May 8, 1923.

San Joaquin Valley Telephone Company is an incorporated company owning and operating a small telephone system, consisting of twenty-nine stations, in the towns of San Joaquin and Tranquillity and vicinity, in Fresno County.

The outside plant of the company consists of a system of grounded lines which, at present, is giving unsatisfactory service and to improve these conditions, and to render satisfactory service, it will be necessary to rebuild the system and metallicize the present grounded circuits.

Applicant is not able, under existing conditions and rates for service, to finance the necessary changes for the improvement of service and, since it began operations in 1914, has never been able to earn an amount sufficient to meet its operating expenses and taxes. The rates now in effect for service rendered by applicant are as high as the service will permit and any increase in rates would probably cause the discontinuance of service by some of the present subscribers, which would result in a further loss to the company.

No objections to the abandonment of the service of the applicant were made by any of the subscribers and, on the contrary, this Commission has received written consent of the large majority of its subscribers to the abandonment of applicant's service.

The present subscribers of the company have associated themselves together with prospective users of telephone service in a mutual association which proposes, in the event of the abandonment of service by the San Joaquin Valley Telephone Company, to take over the present property of the company. This association then proposes to rebuild and operate the system as a mutual association. The company, through its assistant secretary, stated that applicant's entire property would be given to this mutual association free of cost when it shall have received the permission applied for in this application.

I, therefore, recommend that the application of the San Joaquin Valley Telephone Company be granted and I submit the following form of order:

**ORDER.**

San Joaquin Valley Telephone Company, a corporation, having made application for permission to suspend operation and abandon its lines, and to dispose of all of its property, a public hearing having been held, the matter submitted and the Railroad Commission being fully advised in the premises;

*It is hereby ordered*, that San Joaquin Valley Telephone Company, a corporation, be and it is hereby given authority to suspend and

abandon all public utility operation from and after the effective date of this order, which shall be June 1, 1923.

Dated at San Francisco, California, this eighteenth day of May, 1923.

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DECISION No. 12111.

IN THE MATTER OF THE APPLICATION OF SOUTH LOS ANGELES LAND AND WATER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF FIVE THOUSAND DOLLARS OF ITS BONDS.

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Application No. 8943.

Decided May 18, 1923.

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W. A. Robertson, for Applicant.

BRUNDIGE, Commissioner.

**ORDER.**

South Los Angeles Land and Water Company asks permission to issue and sell, at not less than 93 per cent of their face value and accrued interest, \$5,000 of first mortgage bonds due July 1, 1931, and use the proceeds to pay the cost of additions and betterments referred to in the application.

A public hearing was held on this application and the testimony shows that applicant to give adequate service has had to install new pipe lines, dig a new well, erect two new tanks and purchase two new pumps and motors for such pumps. The cost of the improvements, additions and betterments is reported at \$20,931.22. It is for the purpose of paying part of such cost that applicant asks permission to issue and sell bonds.

The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of the \$5,000 of bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income and that this application should be granted; therefore

*It is hereby ordered*, that South Los Angeles Land and Water Company be and it is hereby authorized to issue and sell, for not less than 93 per cent of their face value and accrued interest, \$5,000 of its first mortgage 6 per cent bonds due July 1, 1931, and use the proceeds to pay, in part, the cost of the improvements, additions and betterments referred to in this application.

The authority herein granted is subject to further conditions as follows:

(1) South Los Angeles Land and Water Company shall keep such record of the issue, sale and delivery of the bonds herein authorized

and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will become effective upon the payment by applicant of the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is \$25, and will expire on August 15, 1923.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of May, 1923.

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DECISION No. 12112.

IN THE MATTER OF APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION AT GRADE OF A BRANCH LINE RAILROAD TRACK AND SPUR TRACK CROSSING TWENTY-ONE COUNTY ROADS FROM MAGUNDEN TO ARVIN, TOTAL LENGTH APPROXIMATELY EIGHTEEN AND EIGHT-TENTHS MILES, COUNTY OF KERN, STATE OF CALIFORNIA.

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Application No. 8924.

Decided May 19, 1923.

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*H. M. Hobbs*, for Applicant.

*MARTIN*, Commissioner.

OPINION.

Southern Pacific Company, a corporation, asks authority in this application to construct twenty-six crossings at grade in the county of Kern, State of California. All of these crossings are incident to the construction of a branch line approximately nineteen miles long which the applicant proposes to construct southerly from Magunden through the so-called Weed Patch territory, to Arvin. The applicant has been given a certificate of public convenience and necessity by the Interstate Commerce Commission authorizing the construction of the branch line itself. The present proceedings concern only the construction of the line across the several public roads which the line proposes to cross.

A public hearing was held on this proceeding in Bakersfield, on May 11, 1923.

The branch line on which these various crossings are to be constructed diverts from the Southern Pacific main line between Bakersfield and Los Angeles at a point near Magunden, approximately three miles easterly from Bakersfield and runs thence southerly for a distance of about seven miles. The line for this distance is parallel to and immediately west of a steel tower transmission line of Southern Cali-

fornia Edison Company which is located approximately one-half mile west of the range line common to range 28 east and range 29 east, M. D. B. and M. After having gone south this seven miles the line turns east for a distance of about five and one-half miles running along a line about one mile south of township line common to township 30 south and township 31 south, M. D. B. and M. The line then turns south again for a distance of a little over four miles running along a line approximately one mile west of the range line common to range 29 east and range 30 east and thence turns east again for a distance of a little over one-half mile to a point in the northerly portion of section 36, township 31 south, range 29 east. It is also proposed to build a spur track which will divert from the above described branch at a point near the southwest corner of section 12, township 31 south, range 29 east, and run a little over one and one-half miles east to a point in the southerly part of section 7, township 21' south, range 30 east.

There is a public road located on each section line crossed by the proposed railroad and in certain instances, there are in addition, public roads on intermediate lines within a section.

The original application, filed April 16, 1923, in this proceeding, asked permission to construct twenty-one of the twenty-six crossings involved, but subsequently on May 2, 1923, applicant filed a supplemental application in which permission was requested to construct the other five crossings. The engineering department of the Commission presented at the hearing the results of its investigation and made recommendations with respect to each of the crossings involved. Two of the twenty-six crossings are of sufficient importance to justify careful consideration and these will each be commented on briefly, as follows:

*Tehachapi road.* This is the first road crossed by the proposed branch after leaving the main line. This road, at the point of crossing, is a paved county highway lying parallel to and immediately south of the main line of the railroad. It is the principal route from Bakersfield to the territory lying east and southeast of that city and is one of the routes of travel, although not the most important, between Bakersfield and Los Angeles. A traffic count taken on May 9, 1923, showed a total of 824 vehicles passed on this road in a twenty-four hour period. Part of this is high speed traffic. The road at the point where the branch line will cross it is approximately five feet below the top of rail of the main track adjacent. The junction switch of the branch line will be about one-fourth mile westerly of the proposed crossing of Tehachapi road so that it will not be necessary to change the elevation of the highway at this point. The view is entirely unob-



structed in all directions, the most objectionable feature of the proposed crossing being the fact that the railroad crossing is at an angle of about thirty (30) degrees. Being adjacent to the junction switch it is probable that all train movements will be at a relatively slow speed. In view of all these conditions it appears that this crossing should be protected by an automatic flagman and that movements over it should further be restricted to the extent of prohibiting the movement of any car across the road which is not coupled to a locomotive and that a member of the train crew should act as a human flagman at this crossing for any movement in which a car is shoved ahead of the engine propelling the same. A separation of grades at this point does not seem to be justified at this time.

*Weed Patch Highway.* This is a paved county highway running south from Magunden to Weed Patch along the range line common to range 28 east and range 29 east, M. D. B. and M., and is one of the principal tributaries feeding into the Tehachapi road above described. A traffic count taken on May 8, 1923, at this crossing between the hours of six a.m. and ten p.m. showed a total traffic of 215 vehicles. The view at this crossing is not seriously obstructed in any direction, but since the traffic is quite substantial and operated at relatively high speed on both the railroad and the highway, this crossing should be protected by an automatic flagman.

All of the other twenty-four crossings concerned in this proceeding are dirt roads which carry a traffic varying from as low as one vehicle per day to as high as possibly fifty vehicles per day. In no case are any of the crossings so situated that the view is seriously obstructed and special comment as to each crossing appears to be unnecessary. All of these crossings are described in report filed in this proceeding by the engineering department as the Commission's Exhibit No. 1. Each of the crossings should, of course, be protected by a standard crossing sign and the proper advance warning signs. Grades of approach at all of the crossings should be made less than two per cent. As the territory served by the proposed branch develops there will, of course, undoubtedly be various obstructions to view at many of the crossings and there is no doubt but that the traffic on some of the roads will very substantially increase, and some of the roads may from time to time be improved with hard surface pavement. These future developments will, of course, present new requirements as to protection, provision for which can be made when needed.

Applicant has filed in this proceeding the necessary franchise from the board of supervisors of the county of Kern whereby said county gives its consent to the construction of the several grade crossings and no objection has been made to the granting of this application.

The following form of order is suggested:

**ORDER.**

Southern Pacific Company, a corporation, having made application to the Commission for permission to construct certain crossings at grade in the county of Kern, as hereinafter indicated, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that permission be and it is hereby granted Southern Pacific Company to construct a track at grade across twenty-six public roads in the county of Kern described as follows:

*Crossing No. 1—Tehachapi road.*

Commencing at a point on the southwesterly boundary line of the right of way of Southern Pacific Railroad Company's present constructed and operated railroad in the southwest quarter of section 36, township 29 south, range 28 east, M. D. B. and M., near Magunden, which right of way boundary line is also the northeasterly boundary line of the right of way for paved county highway; thence in a southeasterly direction on a 10 degree curve to the right, crossing the center line of said highway at engineer station "R" 12 plus 58.7, to a point on the southwesterly boundary line of said highway.

*Crossing No. 2—County road.*

Commencing at a point on the north boundary line of the county road running east and west between section 36, township 29 south, range 28 east, M. D. B. and M., and section 1, township 30 south, range 28 east, M. D. B. and M.; thence southeasterly on a curve to the right, crossing the center line of said road at engineer station "R" 39 plus 62.8, to a point on the south boundary line of said road.

*Crossing No. 3—County road.*

Commencing at a point on the north boundary line of the county road running east and west through section 1, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 42 plus 80.6, which is 30.2 feet west of the intersection of the center line of said road with the center line of the county road running north and south through said section, to a point on the south boundary line of said road.

*Crossing No. 4—County road.*

Commencing at a point on the north boundary line of the county road running east and west through section 1, township 30 south, range 28 east, M. D. B. and M., thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 56 plus 06.8, which is 31.2 feet west of the intersection of the center line of said road with the center line of the county road running north and south through said section, to a point on the south boundary line of said road.

*Crossing No. 5—County road.*

Commencing at a point on the north boundary line of the county road running east and west between sections 1 and 12, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 82 plus 56.2, to a point on the south boundary line of said road.

*Crossing No. 6—County road.*

Commencing at a point on the north boundary line of the county road running east and west between sections 12 and 13, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 135 plus 53.8, to a point on the south boundary line of said road.

*Crossing No. 7—Hermesa road.*

Commencing at a point on the north boundary line of the county road, known as Hermesa road, running east and west between sections 13 and 24, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 188 plus 54.0, to a point on the south boundary line of said road.

*Crossing No. 8—White Wolf road.*

Commencing at a point on the north boundary line of the county road, known as White Wolf road, running east and west between sections 24 and 25, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes west, crossing the center line of said road at engineer station "D" 241 plus 65.8, to a point on the south boundary line of said road.

*Crossing No. 9—Mountain View road.*

Commencing at a point on the north boundary line of the county road, known as Mountain View road, running east and west between sections 25 and 36, township 30 south, range 28 east, M. D. B. and M.; thence south 0 degrees 3 minutes, crossing the center line of said road at engineer station "D" 294 plus 50.6, to a point on the south boundary line of said road.

*Crossing No. 10—Panama road.*

Commencing at a point on the north boundary line of the county road, known as Panama road, running east and west between section 36, township 30 south, range 28 east, M. D. B. and M., and section 1, township 31 south, range 28 east, M. D. B. and M.; thence south 0 degrees 16 minutes west, crossing the center line of said road at engineer station "D" 347 plus 53.8, to a point on the south boundary line of said road.

*Crossing No. 11—Weed Patch highway.*

Commencing at a point on the west boundary line of the paved county highway, known as the Weed Patch highway, running north and south between section 1, township 31 south, range 28 east, M. D. B. and M., and section 6, township 31 south, range 29 east, M. D. B. and M.; thence north 89 degrees 47 minutes east, crossing the center line of said road at engineer station "D" 424 plus 14.0, to a point on the east boundary line of said highway.

*Crossing No. 12—County road.*

Commencing at a point on the west boundary line of the county road running north and south between sections 6 and 5, township 31 south, range 29 east, M. D. B. and M.; thence north 89 degrees 40 minutes east, crossing the center line of said road at engineer station "L" 440 plus 16.0, to a point on the east boundary line of said road.

*Crossing No. 13—Edison drive.*

Commencing at a point on the west boundary line of the county road, known as Edison drive, running north and south between sections 5 and 4, township 31 south, range 29 east, M. D. B. and M.; thence north 89 degrees 40 minutes east, crossing the center line of said road at engineer station "L" 493 plus 52.1, to a point on the east boundary line of said road.

*Crossing No. 14—Malaga drive.*

Commencing at a point on the west boundary line of the county road, known as Malaga drive, running north and south between sections 4 and 3, township 31 south, range 29 east, M. D. B. and M.; thence easterly on a 0 degrees 10 minutes curve to the right, crossing the center line of said road at engineer station "L" 546 plus 92.4, to a point on the east boundary line of said road.

*Crossing No. 15—Comanche drive.*

Commencing at a point on the west boundary line of the county road, known as Comanche drive, running north and south between sections 3 and 2, township 31 south, range 29 east, M. D. B. and M.; thence north 89 degrees 48 minutes east, crossing the center line of said road at engineer station "L" 600 plus 20.4, to a point on the east boundary line of said road.

*Crossing No. 16—Greenfield road.*

Commencing at a point on the north boundary line of the county road, known as Greenfield road, running east and west between sections 2 and 11, township 31 south, range 29 east, M. D. B. and M.; thence in a southeasterly direction on a 10 degrees curve to the right and crossing the center line of said road at about engineer station "L" 651 plus 07.0, to a point on the south boundary line of said road.

*Crossing No. 17—Tejon road.*

Commencing at a point on the west boundary line of the county road, known as Tejon road, running north and south between sections 11 and 12, township 31 south, range 29 east, M. D. B. and M.; thence in a southeasterly direction on a 10 degrees curve to the right and crossing the center line of said road at about engineer station "L" 655 plus 08.0, to a point on the east boundary line of said road.

*Crossing No. 18—Buena Vista boulevard.*

Commencing at a point on the north boundary line of the county road, known as Buena Vista boulevard, running east and west between sections 12 and 13, township 31 south, range 29 east, M. D. B. and M.; thence south 0 degrees 40 minutes east, crossing the center line of said road at engineer station "K" 705 plus 25.2, to a point on the south boundary line of said road.

*Crossing No. 19—Sunset boulevard.*

Commencing at a point on the north boundary line of the county road, known as Sunset boulevard, running east and west between sections 13 and 24, township 31 south, range 29 east, M. D. B. and M.; thence south 0 degrees 21½ minutes east, crossing the center line of said road at engineer station "K" 758 plus 17.3, to a point on the south boundary line of said road.

*Crossing No. 20—County road.*

Commencing at a point on the north boundary line of the county road running east and west through section 24, township 31 south, range 29 east, M. D. B. and M., which point is 30.1 feet east of the northeast corner of the intersection of said road with Tejon road; thence south 0 degrees 35 minutes east, crossing the center line of said road at engineer station "K" 771 plus 46.5, to a point on the south boundary line of said road.

*Crossing No. 21—County road.*

Commencing at a point on the north boundary line of the county road running east and west through section 24, township 31 south, range 29 east, M. D. B. and M.; thence south 0 degrees 35 minutes east, crossing the center line of said road at engineer station "K" 784 plus 66.1, to a point on the south boundary line of said road which is 30.1 feet east of the southeast corner of the intersection of said road with Tejon road.

*Crossing No. 22—County road.*

Commencing at a point on the north boundary line of the county road running east and west through section 24, township 31 south, range 29 east, M. D. B. and M., which point is 30.5 feet east of the northeast corner of the intersection of said road with Tejon road; thence south 0 degrees 35 minutes east, crossing the center line of said road at engineer station "K" 797 plus 85.7, to a point on the south boundary line of said road.

*Crossing No. 23—Bear Mountain boulevard.*

Commencing at a point on the north boundary line of the county road, known as Bear Mountain boulevard, running east and west between sections 24 and 25, township 31 south, range 29 east, M. D. B. and M.; thence south 0 degrees 35 minutes east, crossing the center line of said road at engineer station "L" 811 plus 36.2, to a point on the south boundary line of said road.

*Crossing No. 24—Sycamore road.*

Commencing at a point on the north boundary line of the county road, known as Sycamore road, running east and west between sections 25 and 36, township 31

south, range 29 east, M. D. B. and M.; thence in a southeasterly direction on a 10 degree curve to the left and crossing the center line of said road at engineer station "E" 865 plus 58.0, to a point on the south boundary line of said road.

*Crossing No. 25—Sycamore road.*

Commencing at a point on the north boundary line of the county road, known as Sycamore road, running east and west between sections 25 and 36, township 31 south, range 29 east, M. D. B. and M.; thence south 0 degrees 35 minutes east, crossing the center line of said road at engineer station "L" 864 plus 33.4 to a point on the south boundary line of said road.

*Crossing No. 26—Tower Line road.*

Commencing at a point on the west boundary line of the county road, known as Tower Line road, running north and south between section 12, township 31 south, range 29 east, M. D. B. and M., and section 7, township 31 south, range 30 east, M. D. B. and M.; thence in an easterly direction on a 0 degrees 10 minute curve to the right, crossing the center line of said road at engineer station "H" 754 plus 91.9, to a point on the east boundary line of said road.

All of the above, as shown by the maps (sheets 1 and 2 of drawing No. 17878) attached to the application, and map (drawing No. 17900), attached to the supplemental application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings, except crossing No. 20, shall be constructed of a width and type to conform to those portions of said roads now graded with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall each be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic. Said crossing No. 20 shall be so constructed that grades of approach not exceeding two (2) per cent will be feasible in the event that the construction of a roadway shall hereafter be authorized across the railroad at this point and so that said crossing No. 20 may be made safe for the passage thereover of vehicles and other road traffic.

(3) An automatic flagman shall be installed and maintained at the sole cost of applicant for the protection of each of the following crossings, namely:

Crossing No. 1—Tehachapi road,

Crossing No. 11—Weed Patch highway.

Said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Commission.

(4) No car shall be operated over said crossing No. 1, Tehachapi road, except when coupled to a locomotive, and no movement of a locomotive or train in which a car precedes the locomotive propelling

the same, shall be made over said crossing No. 1 unless traffic on the highway be protected by a member of the train crew or other competent employee acting as flagman.

(5) This order is made upon the express condition that the county road on the east and west line through the center of the north half of section 24 (crossing No. 20) is not now actually constructed and open to travel at the point of crossing, and said order shall not be deemed an authorization for the construction or opening of said road to public use across said railroad track.

(6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(7) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this nineteenth day of May, 1923.

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DECISION No. 12117.

IN THE MATTER OF THE APPLICATION OF A. B. PERKINS FOR  
AUTHORIZATION OF REVISED RATE SCHEDULE.

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Application No. 8826.

Decided May 19, 1923.

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A. R. Kelley, for Applicant.

A. G. Thibaudeau, for Newhall Chamber of Commerce.

BY THE COMMISSION.

OPINION.

A. B. Perkins, applicant herein and owner of a public utility water plant, asks authority to revise his rate schedule for water supplied to consumers in and in the vicinity of Newhall, Los Angeles County.

Applicant alleges in effect that the present schedule of rates is inadequate in that it does not yield the annual revenue necessary to meet the expenses for maintenance and operation, replacement annuity and a fair return upon the investment.

A public hearing in this matter was held at Newhall before Examiner Williams. All of applicant's consumers were duly notified and given an opportunity to appear and be heard.

The rates at present in effect were established by this Commission in its Decision No. 8389, dated November 27, 1920, in Application No. 5816, and are as follows:

*Monthly Meter Rates.*

Service Charges.

For $\frac{1}{8}$ by $\frac{1}{4}$ inch meter-----	\$0 50
For $\frac{1}{4}$ inch meter-----	75
For 1 inch meter-----	1 00
For $1\frac{1}{4}$ inch meter-----	1 25
For 2 inch meter-----	1 50

Charges for Water Consumed.

For Domestic Use—

From 0 to 2000 cubic feet, per 100 cubic feet-----	\$0 25
Over 2000 cubic feet, per 100 cubic feet-----	20

For Irrigation Use—

For all water used, per 100 cubic feet-----	06
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The foregoing service charges are in addition to the charges for water consumed.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report covering the results of an investigation of the system, which showed a total estimated original cost as of May 1, 1923, of \$34,636, a depreciation annuity of \$522, and an estimate of reasonable annual maintenance and operating expense amounting to \$1,920. Applicant also presented a report which practically substantiated the above figures and they will be used for the purposes of this proceeding.

The total revenue received from the sale of water for the year 1922 was \$3,123, which is considerably less than the annual charges indicated as reasonable by the use of the foregoing figures for original cost, depreciation annuity and reasonable maintenance and operation expense. It, therefore, appears that authority to increase rates should be granted, and the schedule established in the following order is designed to yield maintenance and operation expense, depreciation annuity and a reasonable return on the investment.

**ORDER.**

A. B. Perkins having applied to the Railroad Commission for authority to increase the rates charged for water supplied to his consumers in and in the vicinity of Newhall, a public hearing having been held thereon and the matter having been submitted;

It is hereby found as a fact that the rates now charged by A. B. Perkins are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that A. B. Perkins be and he is hereby directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered to consumers subsequent to June 15, 1923:

*Monthly Minimum Rates for Irrigation or Domestic Use.*

For $\frac{3}{8}$ inch meter.....	\$1 50
For $\frac{1}{2}$ inch meter.....	2 50
For 1 inch meter.....	4 00
For $1\frac{1}{2}$ inch meter.....	5 00
For 2 inch meter.....	7 50
For 3 inch meter.....	10 00

*Monthly Meter Rates for Irrigation or Domestic Use.*

From 0 to 500 cubic feet, per 100 cubic feet.....	\$0 30
From 500 to 1000 cubic feet, per 100 cubic feet.....	25
From 1000 to 2000 cubic feet, per 100 cubic feet.....	20
From 2000 to 5000 cubic feet, per 100 cubic feet.....	15
Over 5000 cubic feet, per 100 cubic feet.....	10

*It is hereby further ordered*, that A. B. Perkins be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this nineteenth day of May, 1923.

DECISION No. 12118.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF FIFTY THOUSAND DOLLARS OF SIX PER CENT TWENTY-YEAR FIRST MORTGAGE BONDS.

Application No. 8998.

Decided May 19, 1923.

F. W. Hunter, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, which was heard by Examiner Fankhauser, Central Counties Gas Company asks permission to issue and sell, at not less than 92 per cent of face value plus accrued interest, \$50,000 of its first mortgage bonds for the purpose of paying indebtedness and of financing the cost of additions and betterments.

The bonds proposed to be issued are part of an authorized issue of \$500,000 of first mortgage 6 per cent 20-year bonds due January 1,



1939, of which the company, under former orders of the Commission, has issued \$450,000. Of this amount, \$301,000 are reported outstanding in the hands of the public and \$149,000 are reported pledged to secure the payment of a like amount of 7 per cent debentures.

The company proposes to use the proceeds from the sale of the remaining \$50,000 of bonds, the issue of which is requested herein, to pay current indebtedness, which is alleged to have been incurred in making capital additions and to finance the cost of further additions and betterments, which are reported necessary to enable applicant to furnish proper and adequate service to its consumers. The indebtedness to be paid and the additions and betterments to be installed are reported as follows:

*To Pay Indebtedness—*

90-day 7 per cent note to Pacific Southwest Trust and Savings Bank	\$6,500 00
1-day 7 per cent notes to Wm. R. Staats & Company	20,000 00
Account due Sprague Meter Co. for meters purchased	7,000 00
Total indebtedness to be paid	\$33,500 00

*Additions and Betterments—*

Construction and completion of one steel purifier of 75,000 cubic feet per hour capacity with 200 feet of 18-inch pipe connections equipped with four 18-inch gate valves	\$8,100 00
Three 6-inch orifice meters with gauges, by-passes, etc.	3,300 00
Two 3-inch orifice meters, including gauges, by-passes, etc.	1,100 00
Total additions and betterments	\$12,500 00
Total	\$46,000 00

In addition to the \$450,000 of bonds, applicant reports outstanding as of March 31, 1923, \$123,680 of common stock, \$70,000 of notes payable and \$27,732.10 of accounts payable. It reports its revenues for the year 1920 as \$171,375.92, for 1921 as \$208,018.02 and for 1922 as \$201,124.30. After paying operating expenses, taxes and depreciation, it reports its net income available for interest payments in 1920 as \$23,690.20, in 1921 as \$34,234.09 and in 1922 as \$39,812.01. Its net profit for the year 1920 was \$2,390.65, for 1921 \$4,954.25 and for 1922 \$6,639.86.

**ORDER.**

Central Counties Gas Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale of bonds is reasonably required for the purposes specified herein and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Central Counties Gas Company be and it is hereby authorized to issue and sell, at not less than 92 per cent of their face value and accrued interest, \$50,000 of its first mortgage 6 per cent 20-year bonds, and to use the proceeds for the purpose of paying the indebtedness and of financing the cost of additions and betterments described in this application and referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$50, and will expire on September 30, 1923.

Dated at San Francisco, California, this nineteenth day of May, 1923.

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DECISION No. 12122.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS  
OF SISKIYOU COUNTY FOR PERMISSION TO CONSTRUCT OVER-  
HEAD CROSSING OVER THE TRACKS OF SOUTHERN PACIFIC  
COMPANY NEAR KLAMATHON, SISKIYOU COUNTY, CALIFORNIA.

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Application No. 8662.

Decided May 23, 1923.

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*J. A. Ager*, Chairman, Board of Supervisors, and *Chas. E. Johnson*, District Attorney, for Applicant.

*J. E. Lyon* and *J. A. Given*, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

This is an application brought by the board of supervisors of Siskiyou County, under section 2694 of the Political Code of the State of California, for permission to construct an over-grade crossing of a public road across the tracks of Southern Pacific Company at Klamathon.

A public hearing was held on this application in Yreka before Examiner Satterwhite, March 27, 1923.

This application being in the form of a viewer's petition is for permission to relocate an existing county road which now crosses the railroad at grade in such a manner that the road will be constructed above the railroad thus eliminating the existing grade crossing.

This crossing is on the road of the old California-Oregon-Idaho stage road, the general route of which has been established and in use for over sixty years. Prior to the construction of the state highway, which is located several miles to the west, this road was the principal northerly and southerly thoroughfare in this portion of the state, but since the construction of the state highway it has ceased to be a primary road and may now be classed as a secondary road. At the point where this road now crosses the Southern Pacific, it approaches the railroad, traveling northerly, with a descending grade in excess of twenty per cent through a cut some eight or ten feet in height which entirely obstructs the view of approaching trains. After crossing the track the road is carried across the Klamath River on a bridge about two hundred and twenty feet long. In approaching the railroad from the opposite direction the view is not seriously obstructed, but usually vehicles, after actually crossing the rails of the railroad, upon reaching the steep ascending grade, are required to shift gears and there have been instances of automobiles backing down this grade onto the track.

This road is the usual traveled route between Medford, Oregon, and Klamath Falls during portions of the year. At the southerly end of the bridge there is a junction of a road which serves a considerable local territory on the southerly side of the river westerly from the crossing and although the latter road is essentially local in character it does in fact connect through to Yreka over the Anderson grade. On the northerly side of the bridge there is a junction of the through road with a road leading to Copco and this road also serves a quite important section of the country.

The highway traffic over this crossing is quite heavy for mountainous roads, it being estimated that it will average nearly one hundred vehicles per day throughout the year and that in the summer season traffic would be materially greater. In addition to this vehicular traffic it appears that this crossing is used very extensively for driving stock, there being moved over it from six to ten thousand head of stock annually. This is due to two causes: First, that it is the natural connecting link between extensive grazing areas; and second, that stock men avoid the state highway in driving stock and have only this alternate route for general north and south movements of stock. The extensive use of this crossing for stock is one of the important elements in its hazard. The testimony brought out that considerable difficulty was encountered in moving large bands of stock through the cut approaching the railroad and thence across the track and onto the bridge, the situation being one that made the stock hard to control and easily stampeded.

The railroad at the point of crossing runs approximately east and west and is on a ten degree curve, located along the southerly bank of the Klamath River. This is the main San Francisco and Portland line of the Southern Pacific and carries quite a heavy railroad traffic, there being ordinarily eight passenger trains, twelve freight trains and six light engine helper movements daily.

The bridge over the Klamath River, on which this road is carried, has been condemned and the county desires to take advantage of the replacement of this bridge by providing for the separation of grades of the road across the railroad, and in order that this may be advantageously done, it is proposed to build the new bridge at a location about seven hundred and fifty feet easterly of the present bridge, where there is sufficiently high supporting ground to enable the road to be carried over the railroad.

There was no dispute between any of the interested parties as to the desirability of making this proposed change, the only remaining issue being as to the division of expense. The county contends that, due to the very considerable benefits that would accrue to the railroad in eliminating this very dangerous crossing, the railroad should assume all of that portion of the expense which would be added to the entire structure crossing both river and railroad by virtue of the fact that it was carried across the railroad in addition to the river. The railroad objects to paying all of this additional cost and takes the position that the matter of crossing the river is a separate feature concerning the county only and that the matter of expending any additional sum to cross the railroad is a matter of joint benefit to both the railroad and county and that this additional expense, therefore, should be divided equally, this expense to be so divided to include provision for the expected future development of the railroad facilities at Klamathon. In this connection, the railroad stated that it had plans for the construction in the immediate future of a second track which would, for the time being, act as an extension of the Klamathon passing track and would ultimately probably be made a part of a double track system.

At the hearing the applicant did not have any detailed plans and specifications of the proposed structure, and it was agreed that in order for the Commission to be in a position to equitably assess the cost, the applicant should, and it has submitted detailed plans for three separate propositions, as follows:

Exhibit "D"—For a bridge across the river only, replacing the existing structure at or near its present location.

Exhibit "E"—For a structure over both the river and the railroad at a point approximately 750 feet easterly of the existing crossing of

the railroad providing for a one hundred foot span over the railroad to accommodate future tracks.

Exhibit "F"—For a structure to be located approximately 750 feet easterly of the present crossing and constructed over both the river and the existing track of the railroad without providing for space for additional tracks.

The engineers of the railroad have, since the hearing, verbally expressed preference for a type of structure substantially in accordance with that shown in Exhibit "E", which provides for a one hundred-foot steel pony-truss carrying the road over the railroad right of way. Such a structure would give the railroad practically all the latitude possible in the development of its track facilities at this point. It therefore appears that an overhead crossing should be authorized at this point to be built substantially in accordance with the plans shown in Exhibit "E".

In carrying out the principle of dividing the cost which has frequently been used heretofore by the Commission, it would seem that the proper method of dividing the cost in this instance would be to take the difference between the cost of structure that would satisfactorily carry the road over the river and the existing facilities of the railroad and the cost of the structure which would replace the existing condition including the grade crossing and divide this difference in cost equally between the county and the railroad, and that any excess cost due to the providing for additional tracks should be assessed exclusively to the railroad. Under this principle, in this instance, it appears that the amount to be so equally divided between the two parties is the difference between the costs of the structures shown in Exhibits "D" and "F", respectively, and the amount to be borne solely by the railroad would be the difference between the costs of the structures shown in Exhibits "F" and "E", respectively. The county should assume the entire cost of providing the necessary approaches of the road to the new structure.

The testimony clearly indicates that the grade crossing which it is desired to eliminate is one of more than ordinary hazard and it appears that there is no simple means of materially reducing this hazard except by a separation of grades. Under these circumstances, it is obvious that a very serious effort should be made to eliminate this grade crossing by the substitution of an overhead crossing therefor, and the application, therefore, should be granted.

## ORDER.

The county of Siskiyou having made application for permission to construct an over-grade crossing across the tracks of Southern Pacific Company at Klamathon, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that permission be and it is hereby granted the county of Siskiyou to construct a public road above the tracks of Southern Pacific Company at a location hereinafter specified, subject to the following conditions:

(1) Said crossing shall be constructed at a location approximately 750 feet easterly from the existing grade crossing of the California-Oregon-Idaho stage road, said point of crossing to be approximately at engineer station 10963 plus 00 on the railroad.

(2) Said crossing shall be constructed substantially in accordance with plan filed by applicant as Exhibit "E" in this proceeding.

(3) Said crossing shall be constructed with clearances conforming to the provisions of the Commission's General Order No. 26.

(4) The existing grade crossing located at engineer station 10971 plus 61 shall be legally abandoned and effectively closed to public use and travel.

(5) Applicant shall within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

*It is hereby further ordered*, that the cost of constructing the structure over the railroad and the Klamath River at the location herein authorized shall be borne as follows:

The applicant shall pay as its portion of the cost the following amounts:

(a) The cost of replacing the existing bridge over the Klamath River in its present location with a structure constructed in accordance with the plans shown in Exhibit "D".

(b) One-half of the excess cost of constructing a structure in accordance with plans shown in Exhibit "F" over the cost of constructing a structure in accordance with the plans shown in Exhibit "D".

(c) The entire cost of providing the road and approaches to the overhead crossing and bridge herein authorized.

Southern Pacific Company shall pay as its portion of the cost the following amounts:

(a) One-half of the excess cost of constructing a structure in accordance with plans shown in Exhibit "F" over the cost of constructing a structure in accordance with the plan shown in Exhibit "D".

(b) All of the excess cost of constructing a structure in accordance with the plans shown in Exhibit "E" over the cost of constructing a structure in accordance with the plan shown in Exhibit "F".

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this twenty-third day of May, 1923.

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DECISION No. 12123.

IN THE MATTER OF THE APPLICATION OF BAY CITIES TRANSIT COMPANY, A CORPORATION, TO BORROW MONEY.

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Application No. 8764.

Decided May 23, 1923.

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*Robert E. Abbott*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Bay Cities Transit Company asks permission to execute a mortgage and to issue its note or notes in the aggregate sum of \$25,000 for the purpose of financing the cost of additional equipment.

A public hearing was held before Examiner Williams in Los Angeles.

Bay Cities Transit Company is a corporation engaged in operating auto stages for the transportation of passengers between Venice, via Santa Monica and Sawtelle, to the Soldiers' Home and locally in Santa Monica. On February 16, 1923, the city council of the city of Santa Monica granted to applicant an exclusive franchise to operate motor bus lines for the carriage of passengers for hire over fixed routes within the city of Santa Monica. The term of the franchise is fixed at six years but may thereafter be continued for a further period of four years upon the option of the grantee. Under this grant Bay Cities Transit Company, or its successors, is obligated to pay to the city during the first three years of the term, an amount equal to 2 per cent of

the gross annual receipts arising from the use, operation or possession of such franchise, and during the succeeding three years, or any continuance thereafter, an amount equal to 3 per cent of such gross annual receipts.

Applicant now reports that in order to provide the service required by the franchise, and also to improve the existing interurban service, it will be necessary for it to acquire fourteen 2-ton G. M. C. trucks, with specially lengthened bodies, at an estimated cost of \$62,000.

The company proposes to borrow not exceeding \$25,000 on 7 per cent notes, running for a period of not exceeding two years, to make the initial payments on the trucks, and to complete the payment with moneys obtained from the net income of the business. Apparently, applicant proposes to issue six-months notes. It asks, however, that it be permitted to make renewals from time to time for an aggregate period not exceeding two years after date, and to secure the payment thereof by a mortgage of its properties.

The proposed mortgage, a copy of which has been filed in this proceeding, is a first lien on twenty-five motor vehicles, now used by applicant, tools, equipment and office furniture and fixtures. It provides security for the payment of a 7 per cent \$5,000 note, dated April 28, 1923, and due October 28, 1923, and such future advances as may be made by Pacific Southwest Trust and Savings Bank up to \$25,000.

J. E. Anderson, applicant's secretary, testified that in his opinion the company's earnings would be sufficient to provide for not only interest payments but also payment of the principal amount borrowed. It is estimated that when the fourteen new stages are placed in operation the operating revenues under existing rates will approximate \$20,000 a month; expenses, including interest, \$15,000 a month, leaving a net profit of \$5,000. During the year ending December 31, 1922, the company reported operating revenues of \$181,975.88, operating expenses of \$156,801.30 and net revenues of \$25,174.58.

#### ORDER.

Bay Cities Transit Company having applied to the Railroad Commission for permission to issue notes secured by a mortgage of its properties, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Bay Cities Transit Company be and it is hereby authorized to execute a mortgage substantially in the same form as that filed in this proceeding and referred to in the foregoing opinion, and to issue not exceeding \$25,000 of 7 per cent promissory



notes, payable on or before two years after the date of this order, for the purpose of financing in part the cost of the fourteen 2-ton G. M. C. trucks and bodies referred to in this application.

The authority herein granted is subject to further conditions as follows:

(1) Applicant may issue the notes for a period of less than two years and renew them from time to time, provided the combined terms of the notes issued and those given in renewal do not extend beyond two years after the date of this order.

(2) The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

(3) Applicant shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(4) The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this twenty-third day of May, 1923.

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DECISION No. 12126.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ONE MILLION DOLLARS PAR VALUE OF ITS FIRST MORTGAGE FIVE PER CENT GOLD BONDS DUE AUGUST 1, 1949.

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Application No. 8939.

Decided May 23, 1923.

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*Chickering and Gregory*, by *Warren Gregory*, for Applicant.  
*C. P. Cullen*, for Pacific Gas and Electric Company.

BY THE COMMISSION.

OPINION.

Sierra and San Francisco Power Company asks permission to issue and sell, at not less than 80 per cent of their face value and accrued interest, \$1,000,000 of its first mortgage five per cent gold bonds, due August 1, 1949, for the purpose of financing in part the cost of extensions, additions and betterments made prior to February 28, 1923, by Pacific Gas and Electric Company, the lessee of its properties.

A public hearing was held on May 21st by Examiner Fankhauser at San Francisco.

The properties of Sierra and San Francisco Power Company have, since January 1, 1920, been operated by Pacific Gas and Electric Company under a lease agreement, by the terms of which the lessee agrees, among other things, to properly maintain and operate the properties, to pay the cost of such maintenance and operation, to pay all taxes and governmental charges, to pay annually \$30,000 into a fund to amortize bond discount and expense, this amount to be increased if additional bonds are issued, to pay into a special depreciation fund an amount equal to 2 per cent of the gross revenues obtained from the leased properties, to pay interest on the outstanding bonds, to pay a rental of \$50,000 during the first and second years of the lease, \$100,000 during the third year and \$150,000 annually during the remaining years of the lease, and in addition, to build all necessary extensions, additions and betterments to applicant's plants and properties. Expenditures thus made by the Pacific Gas and Electric Company for extensions, additions and betterments are carried in a special capital expenditure account and are to be financed from time to time by Sierra and San Francisco Power Company through the sale of its bonds. In the event that applicant is unable to sell its bonds, it is agreed that they will be pledged with the Pacific Gas and Electric Company to secure the payment of moneys expended by the lessee for extensions, additions and betterments.

There has been filed in this proceeding as "Exhibit B" a statement showing in some detail net construction expenditures of \$3,177,545.98. Of this amount, A. F. Hockhenbeamer, second vice president and treasurer of the Pacific Gas and Electric Company, testified that \$1,250,000 has heretofore been used to have bonds certified, leaving a balance of \$1,927,545.98, which has not been used as a basis for the issuance of any bonds, stock or other evidence of indebtedness. It is the intention of applicant to sell the bonds herein applied for to finance in part the reported expenditures and through such financing pay indebtedness due the Pacific Gas and Electric Company. If unable to sell them, it proposes to deliver them to the Pacific Gas and Electric Company as collateral security in accordance with the terms of the lease agreement between the two companies.

#### ORDER.

Sierra and San Francisco Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for

by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Sierra and San Francisco Power Company be and it is hereby authorized to issue and sell, at not less than 80 per cent of their face value plus accrued interest, \$1,000,000 of its first mortgage 5 per cent bonds due August 1, 1949, to finance in part the construction expenditures described in applicant's "Exhibit B" and pay indebtedness due Pacific Gas and Electric Company, or to deposit the bonds to secure the payment of indebtedness due the Pacific Gas and Electric Company, as provided in the lease of December 31, 1919;

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized, and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,000, and will expire on December 15, 1923.

Dated at San Francisco, California, this twenty-third day of May, 1923.

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DECISION No. 12128.

IN THE MATTER OF THE APPLICATION OF CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION, FOR PERMISSION TO CONSTRUCT A CROSSING OF A PUBLIC STREET OVER AND ACROSS THE MAIN LINE OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC COMPANY AT ITS INTERSECTION WITH UNION AVENUE AND TO ABANDON THE PRESENT CROSSING AT TWENTY-FOURTH STREET AT ITS INTERSECTION OF SAID MAIN LINE.

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Application No. 5998.

Decided May 24, 1923.

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*E. F. Brittan and M. G. Brittan*, for City of Bakersfield.  
*H. W. Hobbs*, for Southern Pacific Company.

MARTIN, *Commissioner*.

**SUPPLEMENTAL OPINION AND ORDER.**

This is a petition on the part of the city of Bakersfield for a supplemental order in the above entitled proceeding wherein the city of

Bakersfield asks for temporary relief for the opening of Twenty-fourth street in said city across tracks of Southern Pacific Company, which street has been closed across the railroad as a condition of the order authorizing the construction of Union avenue at grade across the tracks of Southern Pacific Company in this same proceeding.

A public hearing was held upon this petition before Commissioner Martin, in Bakersfield, May 11, 1923.

The above entitled proceeding was originally brought before the Commission on August 4, 1920, in the form of an application by the city to construct Union avenue at grade over the tracks of the Southern Pacific and to abandon the then existing crossing over the railroad at Twenty-fourth street, and various phases of this matter have been before the Commission from time to time. Pursuant to the Commission's orders in this proceeding Union avenue crossing has been constructed and Twenty-fourth street crossing has been closed and upon an application by the city for a modification of the prior decisions of the Commission to the extent of setting aside the requirements of closing Twenty-fourth street it was decided by the Commission under date of March 24, 1923, that public convenience and necessity did not then require the reestablishment of the crossing of Twenty-fourth street at grade across the tracks of Southern Pacific Company. The Commission pointed out that it was then "possible to travel between Union avenue and Twenty-fourth street along a roadway across private property which practically parallels the railroad on its southeasterly side, and the evidence indicates that the public has used this route for a period in excess of nine years. It is quite probable, therefore, that this roadway has become a public highway by user, but, be this as it may, the city certainly has the right to acquire, if it does not now possess it, a right of way for such a connecting road if public convenience and necessity demand such a connection and this appears to be the proper outlet for Twenty-fourth street."

It appears that subsequent to that decision the owners of the private property over which this road passed, have fenced and closed the same, so that travelers desiring to go from Twenty-fourth street to Union avenue have this route effectively denied them. There appears to be no dispute as to the fact that public necessity and convenience require that a route of travel be established connecting in a reasonably direct manner Union avenue with Twenty-fourth street and to provide for this public necessity the city of Bakersfield has three possible courses open to it, namely:

(a) The institution of court proceedings to establish the city's right to the roadway across the private property which has been closed.

(b) The institution of condemnation proceedings to acquire a strip of land on the southeasterly side of the railroad connecting Twenty-fourth street and Union avenue.

(c) The institution of proceedings before the Railroad Commission to obtain a public crossing at Twenty-fourth street over the tracks of Southern Pacific Company.

Of these three courses it appears that either of the first two necessarily mean protracted and tedious legal proceedings involving a large expense and pending the outcome of which the public would be denied a convenient route of travel to which it is in equity entitled. With the object of obtaining a more direct and prompt relief, the city saw fit to make the present petition to the Railroad Commission. At the hearing this petition was amended to ask for a permanent grade crossing at Twenty-fourth street.

The conditions heretofore confronting the Commission in this proceeding have been materially changed in one respect, namely, that whereas in the past there has actually been available to the public a reasonably convenient route of travel whereby the hazard incident to the crossing at Twenty-fourth street would be eliminated, this route no longer is physically available. The Twenty-fourth street crossing, if reopened, would not result in the creation of any unusual or extraordinary hazard beyond that to be encountered at any ordinary grade crossing, and the principal objection to its establishment is the fact that such hazard as does accrue by virtue of a grade crossing at this point could, to a large extent, be eliminated if the traffic were diverted to Union avenue crossing only five hundred feet distant.

The Southern Pacific does not deny that public convenience and necessity justify a reasonably direct route of travel from Twenty-fourth street to Union avenue, but does contend that the city's proper relief in this situation lies in proceeding to establish the city's right to the public use of the road over private property which has recently been closed. I am convinced, however, that the expense involved in acquiring or confirming the right of the public to the use of the road connecting Twenty-fourth street and Union avenue would be out of proportion to the advantages to be gained by the elimination of a grade crossing at Twenty-fourth street and that during the pendency of the proceedings which would probably continue for considerable time, the public would be materially inconvenienced. The crossing should be protected by an automatic flagman, and since these proceedings have resolved themselves, in effect, to an application by the city for a new crossing, it seems equitable that the city should bear the expense of initially installing such automatic flagman.

In the Commission's Order and Decision No. 11831, dated March 24, 1923, it was found as a fact that public convenience and necessity did not require the reestablishment of the crossing of Twenty-fourth street at grade across the tracks of Southern Pacific Company, and the Commission's Order and Decision No. 9951, dated December 30, 1921, was affirmed. In the last mentioned order, it was provided that the Twenty-fourth street crossing be closed. It appears, however, that, in view of the changed conditions hereinbefore pointed out, public convenience and necessity do now require a crossing at this point, and this should be authorized as a new crossing. The following form of order is therefore suggested:

#### ORDER.

It is hereby found as a fact that public convenience and necessity require the establishment of a public crossing at grade at the point above indicated and to that end

*It is hereby ordered*, that permission be and it is hereby granted city of Bakersfield to construct Twenty-fourth street at grade across the tracks of Southern Pacific Company; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of approximately twenty-seven (27) degrees to the railroad and with grade of approach not greater than four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of said crossing at the sole expense of applicant, said automatic flagman to be of a type and installed in accordance with plans or data approved by the Commission. The maintenance of said flagman shall be borne by Southern Pacific Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of May, 1923.

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DECISION No. 12138.

IN THE MATTER OF THE APPLICATION OF ALBION LUMBER COMPANY FOR AN ORDER AUTHORIZING IT TO PURCHASE THE CAPITAL STOCK ISSUED BY OUTER HARBOR DOCK AND WHARF COMPANY.

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Application No. 8968.

Decided May 25, 1923.

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*Frank Karr*, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Albion Lumber Company, a public utility, asks permission to purchase \$1,000,000 par value of Class "C" preferred stock, \$250,000 par value of Class "B" preferred stock and not to exceed \$747,700 par value of common stock of the Outer Harbor Dock and Wharf Company. For the preferred stock it will pay par and for the common stock, \$15 per share.

The Railroad Commission by Decision No. 11940, dated April 20, 1923, in Application No. 8837 authorized Outer Harbor Dock and Wharf Company to issue not exceeding \$1,850,000 of Class "A" and \$1,000,000 of Class "C" preferred stock at par to Union Oil Company of California in payment of indebtedness.

By the same decision, the Commission authorized the Outer Harbor Dock and Wharf Company to issue and sell at not less than par \$2,000,000 of its Class "B" preferred stock to obtain moneys to pay for improvements, additions and betterments. Albion Lumber Company now asks permission to acquire the \$1,000,000 of Class "C" stock and \$250,000 of Class "B" stock of the Outer Harbor Dock and Wharf Company.

The record in Application No. 8837 shows \$2,625,150 of common stock of the Outer Harbor Dock and Wharf Company outstanding. All of this stock was issued prior to the effective date of the Public

Utilities Act. The Albion Lumber Company asks permission to acquire not exceeding \$747,700 of the stock and pay therefor \$15 per share. The \$15 is not based on an appraisal of the properties or on the market value of the stock, but is an agreed price, the result of negotiations between the parties in interest.

I herewith submit the following form of order:

**ORDER.**

Albion Lumber Company having applied to the Railroad Commission for permission to purchase stock of the Outer Harbor Dock and Wharf Company, a public hearing having been held and the Commission being of the opinion that this application should be granted, as herein provided; therefore

*It is hereby ordered*, that Albion Lumber Company be and it is hereby authorized to acquire at par 10,000 shares (\$1,000,000 par value) of Class "C" and 2500 shares (\$250,000 par value) of Class "B" preferred stock of Outer Harbor Dock and Wharf Company; and to acquire at not more than \$15 per share 7477 shares (\$747,700 par value) of common stock of the Outer Harbor Dock and Wharf Company.

The authority herein granted is subject to further conditions as follows:

(1) The price at which applicant is herein authorized to acquire stock of the Outer Harbor Dock and Wharf Company, shall not be urged before this Commission or any other public body having jurisdiction, as a measure of the value of the properties of Outer Harbor Dock and Wharf Company, for the purpose of fixing rates.

(2) The authority herein granted will become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of May, 1923.



## DECISION No. 12139.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ONE MILLION FOUR HUNDRED THIRTY-EIGHT THOUSAND DOLLARS, PAR VALUE, OF ITS FIRST AND REFUNDING SIX PER CENT BONDS, FIVE HUNDRED FIFTY THOUSAND DOLLARS, PAR VALUE, OF ITS FIRST MORTGAGE BONDS, AND SIX HUNDRED SEVENTY-FOUR THOUSAND FOUR HUNDRED DOLLARS, PAR VALUE, OF ITS PREFERRED STOCK.

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Application No. 8970.

Decided May 25, 1923.

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*Cummins, Roemer and Flynn; Sweet, Stearns and Forward; and Chickering and Gregory, by Allen L. Chickering, for Applicant.*

BY THE COMMISSION.

## OPINION.

In this application, as amended, the Railroad Commission is asked to make an order authorizing San Diego Consolidated Gas and Electric Company to issue and sell \$550,000 of first mortgage 5 per cent bonds due March 1, 1939, \$1,438,000 of Series "C" first and refunding mortgage 6 per cent bonds due March 1, 1947, and \$674,400 of its 7 per cent preferred or common stock.

A public hearing in the application was held before Examiner Fankhauser in San Francisco.

San Diego Consolidated Gas and Electric Company, as of January 31, 1923, reports \$3,025,000 of common stock and \$4,525,800 of 7 per cent cumulative preferred stock outstanding. As of the same date, it reports issued \$5,130,000 of first mortgage 5 per cent bonds due March 1, 1939, \$2,750,000 of Series "A" first and refunding mortgage 6 per cent bonds due March 1, 1939, \$1,500,000 of Series "B" first and refunding mortgage 5 per cent bonds due March 1, 1947, and \$550,000 of five-year 6 per cent collateral trust notes due July 1, 1923.

The record shows that the payment of \$550,000 of collateral trust notes due July 1, 1923, is secured by the deposit of \$688,000 of first mortgage bonds. The notes were issued and the bonds pledged pursuant to authority granted by the Commission in the order in Decision No. 5502, dated June 19, 1918, which provides, among other things, that upon payment of the notes, or any part of them, a proportionate amount of the bonds pledged should be returned to applicant's treasury and thereafter issued only upon further order of the Commission. The company intends to deliver \$138,000 of these hypothecated bonds to the trustee under its first mortgage for cancellation and to sell the remaining \$550,000 at not less than 86 per cent of their face value and accrued interest to obtain funds to pay in part the \$550,000 of notes at

maturity. If the bonds are sold at 86 per cent of face value net, applicant will realize \$473,000, leaving \$77,000 to be obtained from the sale of stock. To secure \$77,000 calls for the issue and sale of \$79,000 of stock at 97½ per cent of par value.

Applicant reports that from March 31, 1921, to January 31, 1923, it expended for the acquisition and construction of properties the sum of \$4,044,055.81. It estimates its capital expenditures for the remainder of 1923 at \$3,001,336.10, including \$487,854.98 for the purchase of an office building. The two items aggregate \$7,045,391.91. Deducting cash from earnings, proceeds from the sale of stock and bonds heretofore authorized and making minor adjustments, leaves a balance of \$1,940,528 of construction expenditures for the financing of which no provision has been made. To pay in whole, or in part, such expenditures, applicant asks permission to issue and sell \$1,438,000 of first and refunding 6 per cent bonds and \$595,400 of 7 per cent preferred or common stock. It asks authority to sell the bonds at not less than 93 net; the preferred stock at not less than \$97.50 per share net; and the common stock at not less than \$100 per share net.

#### ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell stock and bonds, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell \$550,000 of its first mortgage bonds, due March 1, 1939, \$1,438,000 of its Series "C" first and refunding mortgage bonds due March 1, 1947, and either \$674,400 of its preferred stock or \$674,400 of its common stock, or such portions of either class of stock as it may elect to issue, but in the aggregate not exceeding \$674,400.

The authority herein granted is subject to the following conditions:

1. The first mortgage bonds shall be sold at not less than 86 per cent of their face value, plus accrued interest, net; the first and refunding mortgage bonds at not less than 93 per cent of their face value, plus accrued interest, net; the preferred stock at not less than 97½ per cent of its par value plus accrued dividends, net, and the common stock at not less than par, net, to the company.

2. Applicant may use the proceeds from the sale of the \$550,000 of first mortgage bonds and from not exceeding \$79,000 of stock to pay the \$550,000 of collateral trust notes due July 1, 1923. The proceeds from the sale of \$1,438,000 of first and refunding mortgage bonds and the proceeds from the sale of such stock herein authorized and not used to pay collateral trust notes shall be used to finance in whole or in part the construction expenditures referred to in this application and in the foregoing opinion, provided that only such expenditures as are properly chargeable to capital account under the uniform classifications of accounts prescribed or adopted by the Railroad Commission may be financed through the use of proceeds from the sale of bonds and stock.

3. Applicant shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue stock will become effective upon the date hereof and the authority to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,219. The authority to issue stock and bonds will expire on February 28, 1924.

Dated at San Francisco, California, this twenty-fifth day of May, 1923.

## DECISION No. 12140.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN INITIATIVE INTO THE METHODS AND PRACTICES OF OPERATION OF AUTOMOBILE TRUCK LINES BY C. D. RASMUSSEN, DOING BUSINESS UNDER THE FICTITIOUS NAMES AND STYLE OF SANTA FE EXPRESS AND DRAYAGE COMPANY AND S. & F. AUTO TRUCK LINE, AND FRED LUDEKINS AND C. D. RASMUSSEN, COPARTNERS DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF MARTINEZ-SAN FRANCISCO EXPRESS.

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Case No. 1880.Decided May 25, 1923.

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*Myron Harris and Henry G. Tardy*, for Respondents; *Walter H. Robinson*, for *S. B. McLenegan and Sons*, Pioneer-Gibson Express, *E. J. Mott* of Highway Transport Company, Intervenor.

*Gwynn H. Baker*, for Oakland-San Jose Transportation Company, Merchants Express and Drayage Company and Consolidated Motor Freight Lines, Inc., Intervenor.

*L. N. Bradshaw*, for Southern Pacific Company, Intervenor.

BY THE COMMISSION.

## OPINION.

This is a proceeding, initiated by the Railroad Commission on its own motion, requiring respondents to appear and show cause why certificates of public convenience and necessity for the operation of automobile freight and express service as common carriers, now held by respondents as individuals and as copartners should not be revoked and annulled, and for such other or further action as the Railroad Commission may deem proper in the premises.

A public hearing was held before Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Respondent, C. D. Rassmussen, operates under the fictitious name of Santa Fe Express and Drayage Company between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose by reason of operation prior to May 1, 1917, the date recognized by the legislature in chapter 213, Statutes of 1917, as that upon which operation in good faith did not require a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. This respondent also holds an operative right, as an individual, between Oakland and San Jose and the intermediate points of San Leandro, Hayward, Niles, Centerville, Irvington, Warm Springs, Milpitas and Wayne which was secured by the transfer authorized by the decision of this Commission, dated August 18, 1921, whereby O. L. Swett transferred his right, title and interest in said operative route to this respondent. (Decision No. 9379 on Application No. 7085.)

Respondent, Fred Ludekins, was granted a certificate of public convenience and necessity to operate an automobile truck line as a common carrier of express packages between San Francisco and Martinez and intermediate points by this Commission's Decision No. 6919 on Application No. 4909, as decided December 9, 1919, and the operative right thereby conferred was authorized transferred to a copartnership consisting of Fred Ludekins and C. D. Rassmussen by this Commission's Decision No. 8758 on Application No. 6634, decided March 17, 1921.

Respondent, C. D. Rassmussen, on October 13, 1922, filed an application with this Commission requesting authority to establish through routes and joint rates over the territory between San Francisco, Oakland and adjacent points as covered by operative rights existing by operation as of May 1, 1917, and thereafter as herein above referred to, on the one hand, and between Oakland and San Jose and intermediate points as authorized by the provisions of Decision No. 9379 on Application No. 7085, on the other, the application alleging that the public convenience and necessity required the establishment of the through routes and the joint rates therein applied for, and this application was assigned No. 8330 on the Commission's docket. This application was identical with a former application filed on August 26, 1922, and numbered 8204, which was denied by the Commission's Decision No. 11081, dated October 7, 1922, following a regular hearing on October 6, 1922, of which due notice was sent to all interested parties but at which there was no appearance by or on behalf of the applicant. Decision No. 11081, above referred to, contained the following as a portion of the order:

*It is hereby further ordered*, that applicants herein shall immediately discontinue the through operation of automobile trucks engaged in the transportation of property for compensation, which trucks are operated to or from points authorized to be served under certificate held by the S. and F. Auto Truck Line and to or from points authorized to be served under the operative right held by the Santa Fe Express and Drayage Company.

At the hearing on this proceeding it was agreed that the record in Application No. 8204 would be considered in this proceeding. It appears from the testimony of Mr. C. D. Rassmussen in transcript of evidence in Application No. 8330 that the order of the Commission in its Decision No. 11081 on Application 8204 has not been complied with, and in the instant proceeding it appears that rates other than those lawfully on file with this Commission have been assessed for the transportation of property over the through route under investigation herein.

The testimony of respondent, C. D. Rassmussen, in this proceeding, shows that at no time has the operative right or rights herein considered

been owned by himself as an individual, although this respondent has frequently been before the Commission in formal proceedings and in the filing of tariffs in which he has represented himself as the "owner" of either the S. and F. Auto Truck Line or the Santa Fe Express and Drayage Company, such being fictitious names under which this respondent operated or proposed to operate.

According to the testimony of this respondent the Santa Fe Express and Drayage Company, a fictitious name under which this respondent has by all his representations to the Commission supposedly been operating as an individual, is in reality a copartnership consisting of C. D. Rassmussen, R. H. Rassmussen and J. C. Svane. The contentions heretofore made before the Commission that an operative right existed and was held by this respondent between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose by reason of operation in good faith on and subsequent to May 1, 1917, the date fixed by the legislature in the passage of chapter 213, Statutes of 1917, as that upon which operators were not required to secure a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed, are eliminated by the testimony of this respondent that on May 1, 1917, the line was owned and operated by F. M. French and that the partnership of which respondent is a member purchased the line and commenced operation in February, 1918. The statute known as chapter 213, Laws of 1917, did not contain any provision whereby a sale or transfer of an operative right could be accomplished and a certificate of public convenience and necessity was required from this Commission together with the securing of local permits from the governing bodies of all the political subdivisions through which a route passed, and in accordance with the procedure set forth in the statutory enactment. In the 1919 session of the legislature, by the passage of chapter 280, Laws of 1919, an amendment was made to the provisions of chapter 213, Laws of 1917, whereby transfers of operative rights could be made with the approval of the Railroad Commission. An unauthorized and illegal transfer having been made in the month of February, 1918, neither the respondent nor the copartnership of which he is a member have any operative rights and all proceedings heretofore had before this Commission in which erroneous representation of the actual facts has resulted in orders and decisions must necessarily be amended by appropriate order.

Respondent, Fred Ludekins, testified that the transfer of the operative right between San Francisco and Martinez and intermediate points as authorized by this Commission's Decision No. 8758 on Application

No. 6634, decided March 17, 1921, was not in fact from Fred Ludekins (as an individual holding operative rights under the certificate granted by the Commission in its Decision No. 6919 on Application No. 4909, decided December 9, 1919) to a copartnership consisting of Fred Ludekins and C. D. Rassmussen, but to a copartnership consisting of Fred Ludekins and Santa Fe Express and Drayage Co. (a copartnership consisting of C. D. Rassmussen, R. H. Rassmussen and J. C. Svane).

Other testimony in this proceeding fully establishes the fact that there have been practically continuous violations of the Commission's regulations in the matter of tariff filings, acceptance of shipments and their transportation at rates other than the lawful rates as contained in tariffs on file; transportation of shipments to points not covered by certificate rights; unauthorized carriage of shipments on a percentage basis by truckmen over routes covered by rights authorized to respondents; and combination of individual routes into through routes without authority having been secured from the Commission in accordance with the statutory law. It appears unnecessary to elaborate on the detail of various violations of the regulations of the Commission, application of illegal rates and other matters in view of the fact herein established by the evidence of the respondents, Rassmussen and Ludekins, that the operative rights either as of May 1, 1917, or as subsequently granted or authorized to be transferred by order of this Commission have never been actually vested in respondent, Rassmussen, as an individual or in the case of the route between San Francisco and Martinez and intermediate points in a copartnership composed of C. D. Rassmussen and Fred Ludekins.

#### ORDER.

A public hearing having been held in the above entitled proceeding, respondents having duly appeared in response to the order to show cause, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact as appearing in the opinion which precedes this order;

*It is hereby ordered*, that no further operation of automobile trucks as common carriers of freight and express between San Francisco and Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose, or between Oakland and San Jose and the intermediate points of San Leandro, Hayward, Niles, Centerville, Irvington, Warm Springs, Milpitas and Wayne be conducted by C. D. Rassmussen or the partnership composed of C. D. Rassmussen, R. H. Rassmussen and J. C. Svane, doing business under the fictitious name of Santa Fe Express and Drayage Company.

*It is hereby further ordered*, that no further operation of automobile trucks as common carriers of freight and express between San Fran-

cisco and Martinez and intermediate points be given by Fred H. Ludekins and C. D. Rassmussen as copartners; Fred H. Ludekins and a copartnership consisting of C. D. Rassmussen, R. H. Rassmussen and J. C. Svane (doing business under the fictitious name of Santa Fe Express and Drayage Company) or either of them.

*It is hereby further ordered*, that the orders of the Railroad Commission heretofore made in Decision No. 9379 on Application No. 7085 (decided August 18, 1921), Decision No. 8758 on Application No. 6634 (decided March 17, 1921) be and the same hereby are canceled and annulled; and that the certificates of public convenience and necessity heretofore granted by this Commission in its Decision No. 6758 on Application No. 4968 (decided October 18, 1919) and Decision No. 6919 on Application No. 4909 (decided December 9, 1919) be and the same hereby are revoked, canceled and annulled.

Dated at San Francisco, California, this twenty-fifth day of May, 1923.

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DECISION No. 12148.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE TWO HUNDRED TWENTY-NINE THOUSAND DOLLARS FACE AMOUNT OF ITS GENERAL AND REFUNDING MORTGAGE FIVE AND ONE-HALF PER CENT TWENTY-FIVE YEAR GOLD BONDS OF THE SERIES OF 1919.

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Application No. 9006.  
Decided May 29, 1923.

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*Roy V. Reppy*, for Applicant.

BRUNDIGE, *Commissioner*.

OPINION.

Southern California Edison Company asks permission to issue and sell, at not less than 94 per cent of their face value and accrued interest \$229,000, face amount of its general and refunding 5½ per cent twenty-five year gold bonds of the "Series of 1919" for the purpose of refunding \$229,000 of Ventura County Power Company first mortgage 6 per cent bonds.

Applicant has sold its Ventura water system to the city of Ventura for a sum slightly in excess of \$229,000. The proceeds from the sale of this property are deposited with the Title Insurance and Trust Company as trustee under the Ventura County Power Company mortgage, and under the terms of such mortgage can be used only to retire Ventura County Power Company bonds at 101. Applicant intends to exchange its general and refunding mortgage bonds for Ventura



County Power Company bonds, which will be pledged under the 1909 and 1917 mortgages of applicant. The trustee, under these mortgages, will then be requested to sell the Ventura County Power Company bonds thus pledged to the Title Insurance and Trust Company, which will use the moneys resulting from the sale of the Ventura water system for the purchase of Ventura County Power Company bonds from the trustee under the Southern California Edison Company mortgages. The result of this transaction will be to place the proceeds from the sale of the Ventura water system in the trust fund of the 1909 mortgage of the Southern California Edison Company and make such proceeds available to pay the cost of extensions, additions and betterments to the Southern California Edison Company plants and properties.

I herewith submit the following form of order:

#### ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$229,000 face amount of its general and refunding mortgage 5½ per cent twenty-five year gold bonds of the "Series of 1919," a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

*It is hereby ordered,* that Southern California Edison Company be and it is hereby authorized to issue and sell, at not less than 94 per cent of their face value and accrued interest, \$229,000 face amount of its general and refunding mortgage 5½ per cent twenty-five year gold bonds of the "Series of 1919" for the purpose of paying or refunding \$229,000, face amount of Ventura County Power Company first mortgage 6 per cent bonds.

The authority herein granted is subject to further conditions as follows:

1. Southern California Edison Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
2. The authority to issue bonds will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$229, and will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of May 1923.

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DECISION No. 12149.

IN THE MATTER OF THE APPLICATION OF RICHARDS TRUCKING AND WAREHOUSE COMPANY, A CORPORATION OF THE STATE OF CALIFORNIA, FOR PERMISSION TO ISSUE AND SELL SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN CAPITAL STOCK FROM ITS INCREASED CAPITALIZATION AND ADDITIONAL SHARES FROM ITS UNSOLD PREVIOUS AUTHORIZED CAPITALIZATION TO CERTAIN NAMED PERSONS AND TO THE PUBLIC.

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Application No. 8929.

Decided May 29, 1923.

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*Charles H. Tribit, Jr.*, for Applicant.

By THE COMMISSION.

OPINION.

In this application Richards Trucking and Warehouse Company asks permission to issue and sell \$750,000 of its capital stock, divided equally into common and 8 per cent preferred stock, for the purpose of paying for truck equipment, additional land and warehouse facilities and improvements to its present properties.

Richards Trucking and Warehouse Company was organized on or about September 20, 1921, and had an authorized capital stock of \$250,000, divided into 1500 shares of common stock and 1000 shares of 8 per cent cumulative preferred stock, all shares being of the par value of \$100 each. By Decision No. 10033, dated January 30, 1922, it was authorized to issue not exceeding \$134,000 of stock to acquire the properties and business of Thomas Richards, who had been engaged in operating motor trucks for the transportation of freight in Los Angeles and Orange counties, and to pay indebtedness and the cost of additional property.

It appears from this application, and from the testimony given at the public hearing which was held by Examiner Williams, that recently applicant has amended its articles of incorporation so as to provide for an authorized issue of \$1,000,000 of stock divided equally into common and preferred and consisting of 100,000 shares of the par value of \$10 each. The preferred stock is noncallable, bears cumulative dividends at the rate of 8 per cent per annum, payable quarterly, before any dividends are payable to holders of the common stock, and participates in dividends with the common stock up to 12 per cent

per annum. In the event of liquidation, holders of the preferred shares of stock are entitled to receive the par value of their shares, together with any accrued or unpaid dividends, before any amount may be paid to holders of the common stock. After the quarterly cumulative dividends have been paid to holders of preferred stock, the holders of the common stock shall then be entitled to receive dividends of a like amount before further dividends are payable to holders of preferred stock, but both common and preferred thereafter share alike in additional dividends up to and including 12 per cent per annum. Any surplus remaining may be paid to the holders of common stock. It was reported at the hearing that the holders of the outstanding shares of stock, which are of a par value of \$100 each, are willing to exchange them for stock of an equal aggregate par value divided into shares of a par value of \$10 each, as provided in the amended articles of incorporation.

The company now asks authority to issue and sell \$750,000 of stock, it reporting that the expansion and development of its business necessitates the acquisition of additional truck equipment, land and warehouse facilities and the enlargement and improvement of its present properties. Applicant plans to acquire a lot located in the city of Los Angeles for a total consideration of not exceeding \$150,000 and lots situated in the cities of Santa Ana and Long Beach for \$20,000 and \$25,000, respectively. Upon the Los Angeles properties it is proposed to erect and equip a Class "A" concrete six-story warehouse building at an estimated cost of \$275,000. Upon the Santa Ana property applicant intends to construct and equip, at an estimated cost of \$125,000, a four-story Class "A" reinforced concrete warehouse building. While it is also planned to erect a warehouse on the property to be acquired in Long Beach, applicant was unable, at the hearing, to advise the Commission of the character of the building to be constructed or of the estimated cost.

In addition to the foregoing expenditures applicant proposes to expend approximately \$45,000 in acquiring seven trucks and trailers. The company reports that it can not at this time inform the Commission definitely of the kind and style of equipment to be purchased, for the reason that it expects to take advantage of market conditions and to purchase such equipment as will best fill its needs. It is estimated, however, that the cost of the chasses and of building the bodies, which applicant will do in its own shop, will approximate \$45,000.

The lot to be purchased in the city of Los Angeles is reported to be 150 by 150 feet in dimensions, is located on the corner of Alameda and Industrial streets and is served by a spur track, running the full length of its southerly boundary, which is used under lease from The

Atchison, Topeka and Santa Fe Railway Company. The company will acquire this lot subject to two mortgages, one for \$15,000, which is dated December 16, 1921, and is due three years after date, with interest at the rate of 7 per cent per annum, and the other also for \$15,000, due December 16, 1924, with interest at 8 per cent per annum.

The lot in Santa Ana is 75 by 300 feet and is said to be located in the principal industrial section of the city. The company has an option to purchase this land for \$20,000. The present owner has agreed to pave the street upon which the lot fronts and to extend a spur track for approximately 600 feet, which improvements will cost, it is said, about \$4,000. The Long Beach lot is 100 by 275 feet and is reported to be very advantageously situated in the industrial part of the city. The company now holds an option to purchase this property for \$25,000.

Following the hearing in this matter, Mr. E. P. McAuliffe of the Commission's engineering department, made an appraisal of the values of the several parcels of land, which applicant intends to acquire. In his report, which, by stipulation of counsel is in evidence, he estimates the value of the Los Angeles property at \$113,500, of the Long Beach property at \$25,000, and of the Santa Ana property at \$20,000. These figures appear to be fair and reasonable and will be used as a basis for the authorization of the issue of stock.

Applicant proposes to sell its stock in units consisting of one share of common and one share of preferred stock, at par, for cash, and pay a commission of 10 per cent on each share sold. In addition, it expects to expend for printing, advertising and other expenses in connection with the sale of the stock, a sum which will amount to not more than  $2\frac{1}{2}$  per cent of the par value of each share of stock sold. If this is done, applicant would realize  $87\frac{1}{2}$  net for its 8 per cent participating preferred stock and a like amount for its common stock. We regard this net selling price too low. The company should realize at least 95 net for its preferred stock and 90 net for its common stock.

#### ORDER.

Richards Trucking and Warehouse Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that Richards Trucking and Warehouse Company be and it is hereby authorized to issue and sell at not less than par, \$375,000 of its 8 per cent preferred stock, \$375,000 of its common stock, and to assume the payment of not exceeding \$30,000 of indebtedness.

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The authority herein granted is subject to further conditions as follows:

(1) Of the proceeds realized from the sale of the stock, applicant may expend for the following purposes amounts as follows:

- a. An amount not exceeding 5 per cent of the par value of the preferred stock sold, and an amount not exceeding 10 per cent of the par value of the common stock sold may be expended to pay commissions and other expenses incident to the sale of the stock.
- b. To acquire the lot in Los Angeles referred to in this application subject to outstanding indebtedness of \$30,000—not exceeding— \$83,500 00
- c. To acquire lots in Santa Ana and Long Beach referred to in this application—not exceeding ----- 45,000 00
- d. To construct and equip a concrete warehouse in Los Angeles referred to in this application—not exceeding----- 275,000 00
- e. To construct and equip a warehouse in Santa Ana referred to in this application—not exceeding----- 125,000 00
- f. For additional auto trucks and trailers—not exceeding----- 45,000 00

(2) The remaining proceeds, and such portion of the \$573,500 not used for the foregoing purposes, shall be placed in a special bank account and expended only as and when authorized by the Commission in supplemental orders.

(3) The price at which applicant acquires the property referred to herein shall not be urged before this Commission or other court or public body, as a measure of value in fixing rates or for any purpose other than this transfer.

(4) Applicant shall file with the Commission within sixty days from date of this order, a certified copy of its amended articles of incorporation.

(5) Applicant shall file with the Commission statements containing a general description of the auto truck and trailer equipment acquired through the expenditure of not exceeding \$45,000 of the proceeds from the sale of stock, such statements to be filed with the monthly reports required to be filed by the Commission's General Order No. 24.

(6) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$30, and will expire on March 31, 1924.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.

## DECISION No. 12151.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY TO DISCONTINUE CERTAIN STREET CAR SERVICE IN THE CITY OF PASADENA.

Application No. 9045.

Decided May 29, 1923.

BY THE COMMISSION.

## ORDER.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of its local street car service in the city of Pasadena over the Tournament Park, East Washington street, East Orange Grove avenue and North Orange Grove avenue lines. The service proposed to be discontinued is to be substituted by automobile bus service to be installed by the Pacific Electric Land Company—an affiliated company with the applicant—and transfers are to be exchanged with the rail lines of applicant and the automobile busses of the Pacific Electric Land Company in the same manner that transfers are now exchanged on the rail lines of applicant.

The proposed discontinuance of street car service and the substitution of automobile bus service is in accordance with a plan informally discussed in the month of January, 1923, by the Commission, the board of directors of the city of Pasadena and representatives of applicant herein, and the application in this proceeding bears the endorsement of the city attorney of the city of Pasadena that the city of Pasadena, by its board of directors, has authorized its concurrence in the petition of applicant.

Under the authority herein sought, it is not contemplated to abandon or remove any trackage over the routes where street car operation is now given but to try out the substitution of automobile bus service for a reasonable period prior to seeking authority for any track abandonment and such understanding is concurred in by the governing body of the city of Pasadena.

We are of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted subject to the conditions hereinafter contained.

*It is hereby ordered*, that street car service as now rendered by applicant, Pacific Electric Railway Company, in the city of Pasadena and upon the specific routes hereinafter mentioned be and the same hereby is authorized suspended, provided, however, that no suspension of operation shall be made on the lines hereinafter referred to, or any of them, until there shall have been placed in operation automobile bus

lines to be operated either by applicant or the Pacific Electric Land Company upon schedules which shall be satisfactory to the board of directors of the city of Pasadena and this Commission, and

*It is hereby further ordered*, that no authority is hereby conveyed for the abandonment and removal of any trackage on any of the streets upon which suspension of operation is hereby authorized.

A description of the local city lines in Pasadena upon which suspension of service is hereby authorized in accordance with the foregoing conditions, is as follows:

*Tournament Park Line.*

Beginning at the intersection of Los Robles avenue and East Colorado street, thence south along south Los Robles avenue to East California street, thence east along East California street to Arden road.

*East Washington Street Line.*

Beginning at the intersection of East Colorado street and Los Robles avenue, thence north along North Los Robles avenue to East Washington street, thence east along East Washington street to the east city limits of Pasadena, located midway between Hill avenue and Hamilton avenue, thence east from such city limits of Pasadena along East Washington street for a distance of 1.019 miles in the county of Los Angeles, to the end of the line at Tierra Alta.

*East Orange Grove Avenue Line.*

Beginning at the intersection of North Los Robles avenue and East Villa street, thence east along East Villa street to North Lake avenue, thence along North Lake avenue to East Orange Grove avenue, thence east along East Orange Grove avenue to end of line at Allen avenue.

*North Orange Grove Avenue Line.*

Beginning at the intersection of Colorado street and Fair Oaks, thence west on West Colorado street to Orange Grove avenue, thence north and northeasterly along North Orange Grove avenue to North Fair Oaks avenue, thence east along East Orange Grove avenue to North Los Robles avenue.

All the above as shown on a blue print map marked Exhibit "A" as filed with the application in this proceeding, said maps also showing the lines of motor busses to be installed in lieu of the street car service herein authorized to be suspended.

The Commission expressly reserves the right to make such other and further orders in this proceeding as to it may appear just and proper, or, as in its opinion, the public convenience and necessity may require.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.

## DECISION No. 12152.

IN THE MATTER OF THE APPLICATION OF RICHARDS TRUCKING  
AND WAREHOUSE COMPANY FOR PERMISSION TO ISSUE SHARES  
OF STOCK TO KNOWN INDIVIDUALS AND NOT TO THE PUBLIC.

Application No. 7346.

Decided May 29, 1923.

BY THE COMMISSION.

## SECOND SUPPLEMENTAL ORDER.

On January 30, 1922, the Railroad Commission, by Decision No. 10033, authorized Richards Trucking and Warehouse Company, among other things, to issue \$134,000 of its capital stock, of which the company was authorized to deliver \$34,000 of stock in payment for properties and indebtedness and to sell \$100,000 for cash at par.

The order of the Commission, as amended, permits the company to use \$40,000 of the proceeds from the sale of the \$100,000 of stock to pay the cost of acquiring a lot, and \$8,900 of proceeds to pay the cost of constructing additional warehouse buildings and for working capital. The remainder of the proceeds may be expended only for such purposes as the Commission might authorize in supplemental orders.

The company now reports that up to February 28, 1923, it had issued \$68,150 of stock, of which \$34,000 was delivered in payment of properties and indebtedness as authorized by the Commission, and \$34,150 was sold for cash. It appears that of this amount the company has expended \$8,900 as permitted by Decision No. 10033, leaving a balance of \$25,250. It has not acquired the lot. Applicant asks the Commission to make an order authorizing it to use \$25,250 received from the sale of stock to pay for improvements to its warehouse and terminal and for fixtures and equipment therein, all of which are described in statements on file with the Commission.

The Commission has considered applicant's request and believes it should be granted as herein provided; therefore,

*It is hereby ordered*, that Richards Trucking and Warehouse Company be and it is hereby authorized to use \$25,250 of the proceeds received from the sale of the stock authorized by Decision No. 10033, dated January 30, 1922, to finance in part the cost of the additions, betterments and improvements described in statements on file with the Commission.

*It is hereby further ordered*, that the order in Decision No. 10033, dated January 30, 1922, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.



## DECISION No. 12153.

CALIFORNIA PACKING CORPORATION, A CORPORATION,

*vs.*SOUTHERN PACIFIC COMPANY, A CORPORATION, THE ATCHISON,  
TOPEKA AND SANTA FE RAILWAY, A CORPORATION, AND NORTH-  
WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1864.

HUNT BROTHERS PACKING COMPANY, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1866.

ROSENBERG BROS. AND COMPANY, A CORPORATION,

*vs.*SOUTHERN PACIFIC COMPANY, A CORPORATION, AND NORTH-  
WESTERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 1868.

LIBBY, McNEILL AND LIBBY, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1869.

G. W. HUME, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1883.

RICHMOND-CHASE COMPANY, A CORPORATION, THE SHAW FAMILY,  
INC., A CORPORATION, BISCEGLIA BROS., A COPARTNERSHIP,  
HERBERT PACKING COMPANY, INC., A CORPORATION, CALI-  
FORNIA CO-OPERATIVE CANNERIES, INC., A CORPORATION,  
PRATT LOW PRESERVING COMPANY, A CORPORATION, J. C.  
AINSLEY PACKING COMPANY, A CORPORATION, HERSCHEL  
CALIFORNIA FRUIT PRODUCTS COMPANY, A CORPORATION,*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1885.

MAX SCHUKL, DOING BUSINESS UNDER THE NAME AND STYLE OF  
SCHUKL & CO.,*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1888.

A. A. WILSON, AS TRUSTEE IN BANKRUPTCY OF JOHN W. MCCARTHY,  
JR., & CO., A CORPORATION,*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1892.

SUN-MAID RAISIN GROWERS, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION, AND ATCHISON,  
TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1896.

WESTERN MEAT COMPANY, OAKLAND MEAT AND PACKING COMPANY,

*vs.*

SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COM-  
PANY, NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 1723.

MILLER & LUX, INCORPORATED,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION, WESTERN PACIFIC  
RAILROAD COMPANY, A CORPORATION, NORTHWESTERN PACIFIC  
RAILROAD COMPANY, A CORPORATION, THE ATCHISON, TOPEKA  
AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1726.

PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED,  
A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1730.

H. G. PRINCE & CO., A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1905.

WESTERN CANNING COMPANY, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION, AND ATCHISON,  
TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1906.

PACIFIC COAST CANNING COMPANY, A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION, WESTERN PACIFIC  
RAILROAD COMPANY, A CORPORATION.

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Case No. 1907.

Decided May 29, 1923.

**RATES, RAILROAD—REPARATIONS FEDERAL GUARANTY PERIOD.**—Oral argument on motion to dismiss proceedings involving the Commission's jurisdiction to award reparation on intrastate transportation moved during the federal guaranty period, March 1 to August 31, 1920, both dates inclusive.

**HELD:** That there is nothing in the provisions of section 208 (a) of the Transportation Act which prohibits a state commission from awarding reparation on intrastate transportation when it finds that the rates assessed at the time the shipments moved, during the federal guaranty period, were excessive and unreasonable.

*McCutchen, Olney, Mannon and Greene*, by *Allan P. Matthew*, for Complainants in Cases Nos. 1864, 1866, 1868, 1869, 1883, 1885, 1888, 1892, 1896, 1905, 1906 and 1907.

*Sanborn and Roehl*, by *H. H. Sanborn*, for Complainants in Cases 1723 and 1730. *George J. Bradley*, for Merchants and Manufacturers Association of Sacramento, Cal. *E. W. Hollingsworth*, for Traffic Bureau of Oakland Chamber of Commerce.

*Frank M. Hill*, for Fresno Traffic Association.

*Interstate Freight Auditing Service*, by *A. J. Zamb*, for Joseph Herspring Company, Sacramento; Northwestern Redwood Company, Willits; California Canneries Company, San Francisco; United Canneries Company, Oakland; Myers, Darling & Hinton Company, Los Angeles, California; Niles Garden Canning Company, Manteca, California; Tamal Packing Company, San Francisco; G. W. Hume Company, San Francisco; Nelson Packing Company, San Francisco; N. Botto Company, San Francisco.

*Frank B. Austin*, for Defendant Southern Pacific Company, in all cases.

*Seth Mann*, for San Francisco Chamber of Commerce.

BY THE COMMISSION.

#### OPINION ON MOTION TO DISMISS.

All of the above cases involve payment of reparation against transportation furnished between points within the State of California during the period March 1 to August 31, 1920, both dates inclusive, which time is commonly referred to in connection with Transportation Act, 1920, as "The Federal Guaranty Period."

The principal defendant in these proceedings, the Southern Pacific Company, under date March 27, 1923, filed motions to dismiss upon the grounds that the Railroad Commission of the State of California was without jurisdiction to award the reparation claimed.

Under date April 2, 1923, this Commission made its motion and notified the interested parties to appear on Monday, April 23, 1923, for the purpose of oral argument on the question of jurisdiction to award reparation against intrastate shipments moving between March 1, 1920, and August 31, 1920. The arguments were heard on the date specified and the matter is now ready for our determination.

The position of the defendants is that the rates in effect February 29, 1920, were fixed by federal authority for transportation within the State of California to remain in effect until September 1, 1920, and could not be reduced during that period of time without the approval of the Interstate Commerce Commission, therefore any order of the California Commission requiring the payment of reparation during the federal guaranty period would be of no force or effect by reason of the provisions of section 208(a) of the Transportation Act.

The section referred to reads:

All rates, fares and charges, and all classifications, regulations and practices, in any wise changing, affecting or determining, any part or the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare or charge shall be reduced, and no such classification,

regulation or practice shall be changed in such manner as to reduce any such rate, fare or charge, unless such reduction or change is approved by the Commission.

On March 1, 1920, the regulation of intrastate rates returned to the jurisdiction of the State Commissions, and the Interstate Commerce Commission had no jurisdiction over such rates except as outlined under section 208(a) of Transportation Act, which section extended to it no authority to award reparation on intrastate traffic during the federal guaranty period. However, the Interstate Commerce Commission took no definite action on the intrastate situation until April 15, 1922, when it issued its Conference Ruling Order:

Voted that section 208 (a) of the Transportation Act, 1920, does not authorize the Commission to award reparation, or consent to an award of reparation made by a state commission, on intrastate shipments which moved during the guaranty period, March 1 to September 1, 1920.

Notwithstanding the fact that the Interstate Commerce Commission has taken the position that it has no jurisdiction to award reparation against intrastate transportation during the guaranty period, it has assumed jurisdiction and awards reparation in connection with interstate shipments moved during the same period of time. It would appear to the Commission that if it fail to act complainants would have no redress unless by an action in the civil courts.

Upon consideration of all the facts and the arguments made pro and con, we conclude that this Commission has jurisdiction to award reparation on shipments moved during the federal guaranty period and that the cases herein should be set for hearings and each proceeding decided upon its merits as to whether or not reparation is due and payable account excessive rates charged against shipments made during the federal guaranty period.

This Commission has heretofore decided a similar reparation proceeding in Case No. 1763—*W. P. Fuller and Company vs. Southern Pacific Company* (22, C. R. C 521) without a full and complete presentation of all the legal points involved, but in that case the conclusion as to reparation during the federal guaranty period was merely incidental to the proceeding, and reparation was denied upon the grounds that the rate under attack in that proceeding was found not unreasonable.

The motions to dismiss are denied.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.

## DECISION No. 12154.

APPLICATION OF SAN JOSE WATER WORKS, A CORPORATION, AND THE VINELAND IMPROVEMENT CLUB FOR A HEARING TO FIX RATES TO BE CHARGED CERTAIN PARTIES SUPPLIED WITH WATER BY THE SAN JOSE WATER WORKS.

Application No. 8917.

Decided May 29, 1923.

The Vineland Improvement Club and the San Jose Water Works having filed a joint application with the Commission to fix rates that would permit the necessary investment of capital for the water company to provide adequate service, the Commission ordered in effect meter rates of twenty-five cents per 100 cubic feet for the first 600 cubic feet; twenty cents per 100 cubic feet for 600 to 1000 cubic feet; fifteen cents per 100 cubic feet for 1000 to 10,000 cubic feet; twelve cents per 100 cubic feet for all over 10,000 cubic feet; and monthly minimum charges as follows:  $\frac{1}{8}$ -inch meter, \$1.50;  $\frac{1}{4}$ -inch meter, \$2.50; 1-inch meter, \$4; 1 $\frac{1}{2}$ -inch meter, \$7.50; 2-inch meter, \$12; 3-inch meter, \$20; 4-inch meter, \$40.

*Joseph R. Ryland*, for San Jose Water Works.

*J. J. Pardee, M. E. Purmort, M. E. Muma and G. W. Burrows*, for Vineland Improvement Club.

*L. B. Klein*, in propria persona.

*WHITTLESEY*, Commissioner.

## OPINION.

The joint application of the San Jose Water Works and Vineland Improvement Club asks for the establishment of reasonable rates and regulations for improved water service to be furnished in the territory between the towns of Los Gatos and Campbell. It is alleged in effect that a large capital investment will be required to render adequate service and that the present effective rates would not be compensatory.

A public hearing in this matter was held at Campbell. All of the consumers who would be affected by the proposed changes in rates had been duly notified and were given an opportunity to appear and be heard.

The San Jose Water Works has been before the Commission in previous proceedings and reference is made thereto for a general description of its system and operations.

Vineland Improvement Club is an unincorporated club whose members are property owners or residents of Vineland, a section north of Los Gatos and south of Campbell.

About twenty-five years ago the county of Santa Clara constructed pipe lines from Los Gatos in a northerly direction along the San Tomas Aquino road in order to furnish water for road sprinkling. Connections were subsequently made to those county mains, and individuals received service therefrom. About 1903, consumers on these lines were metered, and service has been furnished by San Jose Water Works,

permission first having been given by the county supervisors for such connections and service. The practice of the company has been to advise that service would be given to the capacity of the county mains and at times might be inadequate. There are now about 100 consumers being served from mains of 2-inch diameter or less.

In an effort to improve the admittedly poor service in this territory, Vineland Improvement Club filed an informal complaint, and an investigation was made by the Commission's Hydraulic Division, which was followed by the preparation of plans by the company for the improvement of conditions in this section. Conferences have been held, the utility and a committee from the club participating therein, and the general scheme of improvements has been agreed upon.

In Los Gatos it is proposed to install a 10-inch main on University avenue, continuing with a 6-inch main on Cypress avenue and Santa Cruz road to a reservoir located outside the city limits of Los Gatos, the first unit of which will have a capacity of approximately 300,000 gallons. From this point an 8-inch line will be laid to the junction of San Tomas Aquino and Pollard roads, continuing from this point with a 6-inch line on Pollard and Little San Tomas Aquino roads to the junction of the latter with Hazel avenue. The plans further provide for the installation of 2-inch pipe as is required in the territory served, it being the announced intention of the company to render adequate service to the consumers of record in this section.

The laying of mains in Los Gatos is required in order that an ample supply may be enjoyed by the present consumers who are contiguous to the lines supplying the proposed reservoir and also to provide for future growth in Vineland and other territory. On this basis the company submitted that one quarter of the estimated cost of \$18,940 of the Los Gatos lines be charged to the Vineland extension. The total estimated cost of the improvements chargeable to the Vineland section (to be designated as San Tomas Division of San Jose Water Works) as presented by the company with the above inclusion is \$50,000. This covers cost of meters in place, possible changes in service pipe, and in general the installation as outlined.

The records of earnings for the past twenty-one years from this section were presented in evidence. The maximum received was in 1922, in the amount of \$2,086.83. Study of this record does not indicate any material growth during any period. Consumers and company officials were in accord however in the view that revenues would have been greater had sufficient water been available for use at all times.

The present meter rate effective throughout San Jose, Los Gatos, Saratoga and Vineland, for domestic service, is a monthly minimum of

90 cents, which entitled the consumer to 4000 gallons of water. Above this amount the rates are as follows:

4,000 gallons to 10,000 gallons, per 1000 gallons, per month-----	\$0 20
10,000 gallons to 100,000 gallons, per 1000 gallons, per month-----	15
All over 100,000 gallons, per 1000 gallons, per month-----	12

The utility contends that the application of the foregoing rates in the Vineland district, even if water use were increased considerably, would not produce an adequate return on the required capital investment, and it was shown at the hearing that many of the consumers have no objection to a reasonable increase in the rates in view of the higher cost of furnishing the supply.

At this time the exact expenditure required to furnish adequate service in this territory can not be definitely determined, there being a possibility that all of the contemplated construction will not be required immediately, but the interests of consumers can be fully protected even though the actual cost of the necessary improvements is not definitely known. It further appears that an increased rate for this particular service is justified and that it would be unreasonable to expect consumers who are located in localities which can be served more economically, to absorb the increased cost of service in the Vineland area.

The rates set out in the following order are established after a thorough consideration of the peculiar conditions affecting this matter as disclosed by the evidence submitted, and will be fair alike to consumers and the utility.

At times in the past when water had been shut off from these lines instances have occurred where private tanks have been drained, carrying sediment which has collected therein back into the mains, with subsequent inconvenience to other consumers. The utility therefore desires authority to establish a rule requiring that all supply pipes to private tanks be carried to the tops thereof, rather than to enter at the bottoms. It is believed, however, that water will not be shut off from the lines in the future as it has been in the past, and that there will be no great difficulty experienced in properly protecting the mains from this back flow either by means of service pipe changes or by the installation of a few check valves.

Both the consumers and the utility are to be commended for the hearty cooperation which was shown throughout this entire proceeding. The Commission is highly appreciative of such cooperation and it is apparent that under other conditions the improvement of service in this particular area and the establishment of reasonable rates therefor would have been a much more difficult problem.

The following form of order is submitted:

**ORDER.**

San Jose Water Works and Vineland Improvement Club having joined in an application to this Commission requesting the establishment of reasonable rates and regulations for the water service to be rendered the Vineland section, a public hearing having been held thereon, the matter having been submitted, and being now ready for decision,

It is hereby found as a fact that the rates now charged by San Jose Water Works for water delivered to consumers in the Vineland section, or what is to be designated as the San Tomas Division of San Jose Water Works, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that San Jose Water Works be and the same is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following rates for water served in Vineland section, said rates to become effective upon the completion of the contemplated work as set out in the preceding opinion, and to remain in effect until further order of this Commission:

*Monthly Minimum Charges.*

$\frac{5}{8}$ -inch meter	-----	\$1 50
$\frac{3}{4}$ -inch meter	-----	2 50
1 -inch meter	-----	4 00
$1\frac{1}{2}$ -inch meter	-----	7 50
2 -inch meter	-----	12 00
3 -inch meter	-----	20 00
4 -inch meter	-----	40 00

*Monthly Meter Rates.*

0 to 600 cubic feet, per 100 cubic feet	-----	\$0 25
600 to 1,000 cubic feet, per 100 cubic feet	-----	20
1,000 to 10,000 cubic feet, per 100 cubic feet	-----	15
All over 10,000 cubic feet, per 100 cubic feet	-----	12

*It is hereby further ordered*, that the rules and regulations governing the service of San Jose Water Works in general use over its system, be also applied to consumers in the Vineland section in so far as they do not conflict with the provisions of this order.

*It is hereby further ordered*, that San Jose Water Works keep a true, correct and separate record of all capital expenditures, maintenance and operation expenses, and revenues, covering its operations in the said Vineland section, and furnish copies thereof to this Commission on or before the thirty-first day of December of each year unless the Commission shall direct that such copies be furnished at other intervals.



The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.

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DECISION No. 12155.

LOS ANGELES GAS AND ELECTRIC CORPORATION, A CORPORATION,

*vs.*

SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION.

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Case No. 1785.

Decided May 29, 1923.

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**GAS SERVICE—FRANCHISE RIGHTS—ANNEXATION DOES NOT TERMINATE.**—The Commission decides adversely to the plaintiff's contention that annexation proceedings had the effect of terminating the rights which defendant held under a county franchise as to this annexed territory. The Commission holds that annexation does not affect franchise rights, except in so far as the holder of such rights may be subject to additional police regulations imposed by the municipality. Disputed territory is apportioned between plaintiff and defendant by the Commission, and each is ordered not to extend its service into the territory of the other, except upon authority from the Commission in the event that the other company shall refuse, or be unable to render efficient service.

BY THE COMMISSION.

**OPINION.**

The plaintiff, Los Angeles Gas and Electric Corporation, claiming the right under certain franchises to serve all the territory included within the corporate limits of the city of Inglewood, complains that the defendant, Southern California Gas Company, a similar utility serving territory outside of the city of Inglewood, has unlawfully begun the extension of its lines into a territory recently annexed to the city of Inglewood. Plaintiff contends that by such annexation, any rights which the defendant company had to serve unincorporated territory were terminated. The Railroad Commission is asked to order the defendant company to desist from extending its lines into the disputed territory recently annexed to the city of Inglewood. A hearing was held in this matter before Examiner Gordon on the twenty-first of September, 1922; briefs were thereafter filed and the matter submitted and is now ready for decision.

The plaintiff claims the right to serve the territory included within the city limits of Inglewood under two franchises. The city of Inglewood, by ordinance adopted March 18, 1912, in effect March 23, 1912, granted a franchise to the Inglewood Gas Company. This franchise was assigned to the plaintiff, Los Angeles Gas and Electric Corporation,

March 19, 1912. No certificate of public convenience and necessity was ever granted by the Railroad Commission, authorizing either the plaintiff or its grantor to exercise the rights under this franchise. The second franchise held by the plaintiff was granted by the board of supervisors of Los Angeles County by Ordinance No. 319 N. S., passed January 13, 1913, in effect thirty days thereafter. This ordinance authorized the Los Angeles Gas and Electric Corporation to construct and maintain its pipe lines on certain named streets within the county, some of which streets are included within the disputed territory recently annexed to the city of Inglewood. The Railroad Commission by its decision No. 427, rendered January 30, 1913, granted a certificate of public convenience and necessity authorizing the exercise of rights under this franchise.

The defendant holds a franchise granted by Ordinance No. 463 N. S. of the board of supervisors of the county of Los Angeles, passed March 26, 1917, in effect April 25, 1917. This franchise authorized the construction and maintenance of a system of pipes by the defendant, throughout a large section of the unincorporated portion of Los Angeles County, including all of the disputed territory recently annexed to the city of Inglewood. A certificate of public convenience and necessity was granted by the Railroad Commission, authorizing the exercise by the defendant of the rights granted under the franchise (Application No. 2682, Decision No. 4254, decided April 17, 1917).

The disputed territory is a section approximately three-quarters of a mile wide by one mile long on the eastern side of the city of Inglewood, which was annexed to that city by annexation proceedings completed September 21, 1921. The evidence shows that the defendant has laid a pipe line into this territory beginning at the intersection of Manchester avenue and the easterly city limits of Inglewood, extending therefrom westerly along Manchester avenue to its intersection with Cypress avenue, thence southerly approximately one-half mile along Cypress avenue. This line connects with the mains of the defendant lying to the east of the city of Inglewood and has been used for the purpose of supplying an oil well situated near the eastern limits of Inglewood. There are no other lines or service connections of the defendant within the disputed territory. The defendant, however, does have an extensive system of pipe lines immediately to the east of the city of Inglewood from which it serves a great number of domestic and industrial consumers.

The plaintiff, Los Angeles Gas and Electric Corporation, has heretofore and is now serving the entire urban community to the north, west and southwest of the disputed territory, including all of the city of Inglewood and large portions of the city of Los Angeles. Within the disputed territory, the plaintiff has established service connections and

maintained service to a few scattered domestic consumers along the northerly edge of this section.

Under the facts as above set forth, we are of the opinion that this is a case in which public convenience and necessity is best served by dividing the disputed territory between the two competing utilities. The defendant utility should be permitted and required to serve that portion of the disputed territory south of Manchester and east of Cypress avenue; also such consumers along the northerly side of Manchester and the westerly side of Cypress avenues who can be conveniently reached by a service extension of not more than one hundred fifty (150) feet from the mains of defendant on Manchester and Cypress avenues. The remainder of the disputed territory should be served by the plaintiff, Los Angeles Gas and Electric Corporation. In the event that the plaintiff should ever decline to make extensions at its own expense within that portion of the disputed territory allocated to it, the defendant should be permitted, upon application to it by the prospective consumers, to extend its lines into this territory so far as may be necessary to render the service applied for, together with future service along the line of such extension. The order herein will provide for a division of the territory in accordance with the foregoing recommendations.

In deciding that the defendant should serve a part of the disputed territory, we conclude adversely to plaintiff's contention that the annexation proceedings had the effect of terminating the rights which defendant held under the county franchise as to this annexed territory. We think it is well settled that annexation does not affect franchise rights theretofore acquired, except in so far as the holder of such rights may be subject to additional police regulations imposed by the municipality. (*Russell vs. Sebastian*, 233 U. S. 195; *People ex rel Woodhaven Gas and Light Co. vs. Deeham*, 153 N. Y. 528, 47 N. E. 787; *People ex rel Rockwell vs. Chicago Tel. Company et al*, 91 N. E. 1065; referred to and quoted in *Hill vs. City of Oxnard*, 46 Cal. Ap. 624, 630).

#### ORDER.

For the reasons above set forth;

*It is hereby ordered*, that the Southern California Gas Company construct no more mains or distribution lines for the service of gas within that portion of the territory annexed to the city of Inglewood; September 21, 1921, which lies north of Manchester avenue or west of Cypress avenue, except service pipes to a distance of not more than one hundred fifty (150) feet, for the service of consumers along Manchester avenue from the point of intersection with Cypress avenue easterly to the city limits of Inglewood and along Cypress avenue from the point of intersection with Manchester avenue southerly to the city limits of Inglewood.

Provided, however, that in the event of the refusal of the Los Angeles Gas and Electric Corporation or other similar utility to extend service at its own expense to an applicant residing within that portion of the annexed territory north of Manchester or west of Cypress avenues, then the said Southern California Gas Company may upon application for such service and upon notice to this Commission of its intention so to do, extend its lines within said portion of the annexed territory to serve such applicant or applicants and may thereafter serve other consumers along the line of such extension and within one hundred fifty (150) feet thereof.

*It is hereby further ordered*, that the Los Angeles Gas and Electric Corporation make no further extensions of its pipe lines for the distribution of gas into that portion of the territory annexed to the city of Inglewood, September 21, 1921, lying south of Manchester and east of Cypress avenues.

Furthermore, the Commission hereby declares that public convenience and necessity requires the amendment and modification of the Commission's order of January 30, 1913, Decision No. 427, granting a certificate of public convenience and necessity to the Los Angeles Gas and Electric Corporation and of the Commission's order of April 17, 1917, Decision No. 4254, granting a certificate of public convenience and necessity to the Southern California Gas Company and the same are hereby modified and amended, in so far as the rights thereunder are limited by the provisions of the foregoing order.

Dated at San Francisco, California, this twenty-ninth day of May, 1923.

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DECISION No. 12159.

IN THE MATTER OF THE APPLICATION OF THE RODEO-VALLEJO FERRY COMPANY, A CORPORATION, FOR LEAVE TO INCREASE PASSENGER FARES BETWEEN MARE ISLAND AND THE CITY OF VALLEJO.

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Application No. 8512.

Decided May 31, 1923.

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*tum Suden and tum Suden*, by *Peter tum Suden*, for Applicant.  
*S. W. Morgan, C. Neilson and E. J. Dorris*, for Mare Island Employees Association.  
*P. J. Willett*, for Commandant of Mare Island Navy Yard.  
*W. H. Depew*, for Central Labor Council of Vallejo.

WHITTLESEY, *Commissioner*.

OPINION ON REHEARING.

This matter again comes before the Commission on the petition of applicant for a rehearing, which was held in Vallejo on April 26, 1923.

At this time applicant amends its original application, which

requested an increase of from two and one-half cents a single trip to five cents, and from five cents a round trip to ten cents, by now leaving the fares to be fixed by the Commission.

The original opinion in this matter described the service given, but it may be added at this time that practically all of applicant's patrons are civilian employees of the Mare Island Navy Yard, who go from Vallejo to the Island in the morning and back at night, with some riding to Vallejo and back in the noon hour for lunch. Applicant has no direct competition in this service, but is subject to some extent to competition by reason of the government causeway, over which the employees can travel back and forth either by automobile or on foot. At present about 50 per cent of the employees use the ferry and this seems to be a somewhat stable condition, as the causeway was built some years ago and the relative number of employees using the causeway has had ample time for adjustment.

#### Valuation and Rate Base.

Mr. H. C. Weeks, the Commission's transportation engineer, presented a valuation of the properties of applicant used on the Vallejo-Mare Island run, as follows:

Historical reproduction cost, valuation as of March 26, 1923----- \$50,176

Inasmuch as the revenue is collected in cash in advance on this run this service is analogous to street railway service and following the policy of the Commission nothing will be added to represent working capital and, therefore, the historical reproduction cost of \$50,176 is adopted as a rate base.

#### Revenues.

Applicant submitted in exhibit "A" a statement of revenues for the year ending March 31, 1923, as follows:

Ticket sales -----	\$25,318 33
Rent of building -----	405 00
Total -----	\$25,723 33

In considering revenues for the future, applicant estimated 1500 round trips for 305 days in the year 1923, totaling 459,000, but it should be noted that the number of passengers fluctuates with the number of civilian employees at the Navy Yard and that the number of employees ferried in 1922 varied from about 5000 in January to 3000 the latter part of the year. For this reason figures representing the past year can not be used in estimating the future.

Mr. Weeks estimates 1700 round trips per working day of 300 days a year, which makes 510,000 round trips for the year, based upon the experience of December, 1922, to March 1923. Applicant estimated

with a higher rate about 200 less round trips daily, representing the travel during the noon hour, which would not be continued at the higher rate. A figure of 500,000 represents a fair estimate to use on the determination of reasonable rates.

The rent of the wharf building, according to applicant, should produce \$480 annually.

There was filed, January 24, 1923, with the Commission a petition signed by the applicant, the Commandant of Mare Island, and the Navy Yard Association of Mare Island Employees wherein these parties agree that the applicant be allowed to increase its fare to twenty round trip tickets for \$1.50 with a single round trip of ten cents, all tickets to be good until used and to be transferable.

#### Expenses.

The record of operating expenses for the year ending March 31, 1923, together with estimates for the ensuing year are presented in Table I following:

TABLE I.  
Operating Expenses.

Item (a)	Year 1922 carriers records (b)	Estimates for Ensuing Year		
		By applicant (c)	Commission's engineer (d)	Applicant exceeds by (e)
Repairs to floating equipment--	\$1,846 94	\$1,600 00	\$1,300 00	\$300 00
Repairs to terminals-----	7,698 67	3,000 00	1,000 00	2,000 00
Transportation expenses ----	16,646 06	13,174 00	15,500 00	—2,326 00
Fuel and lubricating oil-----	3,874 95	5,400 00	3,720 00	1,680 00
Insurance -----	1,425 54	1,425 36	1,425 36	0
Heat, light, power and water--	662 87	672 00	700 00	—28 00
Telephone and telegraph-----	93 65	72 00	108 00	—36 00
City lease, wharf location----	120 00	120 00	120 00	0
Printing and stationery-----	300 15	180 00	300 00	—120 00
Supervision and accounting---	835 60	2,100 00	700 00	1,400 00
Subtotal A -----		\$27,743 36	\$24,873 36	\$2,870 00
Depreciation -----	5,534 69	5,414 52	\$1,103 00	4,458 52
Subtotal B -----		\$33,157 88	\$25,976 36	\$7,328 52
Contingencies 2% -----	0	668 30	0	668 30
Subtotal C-----		\$33,826 18	\$25,976 36	\$7,996 82
Taxes -----	262 65	257 16	264 00	—6 84
Total -----	\$39,301 77	\$34,083 34	\$26,240 36	\$7,989 98

There are apparently considerable differences in columns "b", "c" and "d" for repairs to terminals, transportation expenses, fuel and lubricating oil, supervision and accounting and depreciation.

Taking up first the carrier's recorded cost of repairs to terminals \$7,698.67, the evidence indicates that this figure can not be used as a basis for an estimate of the future repair costs. It was shown that an

#Corrected for slight error in calculations.

order for the repairs to the terminals above noted was given to the Bay Construction Company without competitive bids. Pay rolls were not attached to vouchers supporting these expenditures and there was not sufficient detail to show clearly what work had been done. Compared with similar jobs the amounts charged appear exorbitant for this work.

Furthermore, witness for applicant stated that he believes dock repairs could be kept within \$900 a year for the next ten years, and since our engineer's estimate was not successfully controverted, his allowance of \$1,000 should stand.

The next largest item of difference is in transportation expense where applicant's estimate is \$2,326 less than that of our engineer. Applicant's estimate is based on a six-day week, but still is less than the actual expense for the year ending March 31, 1923, during part of which time a five-day week was in effect. Our engineer's estimate is on the basis of the last four months and in spite of being higher than the applicant's estimate is more reasonable.

For fuel and lubricating oil applicant estimates \$5,400 or \$1,680 above the estimate of our engineer. The latter's estimate was based on the actual expenses for the last four months, when six days a week operation was in effect. Applicant's estimate is based on the average of the past two years. There is no good ground for assuming that the price of oil will be higher for the next twelve months than the price paid during the last four months.

The next largest item of difference is supervision and accounting. Our engineer's estimate is based on pro-rating the general expenses of the entire Rodeo-Vallejo Ferry Company between the Carquinez Straits and Mare Island runs in the proportion of the gross revenues of each run, while the applicant made an arbitrary estimate; increasing this item \$300 over the cost in the year 1922.

The greatest difference in the estimate of expenses lies in depreciation. Applicant stated that the charge for depreciation was based on the book value of the plant and the rate of depreciation filed with the government income tax.

The record shows that the actual cost to the various owners of the properties used in the Mare Island service at the time they were installed is not known, and that the book value is an arbitrary figure.

In this proceeding the Commission is not interested in how an arbitrary charge standing on applicant's books as the cost of the properties here under consideration is to be written off, unless it takes into consideration at the same time the actual value of the properties when applicant acquired them. In this case the recorded cost to the applicant was undoubtedly influenced by the fact that the Rodeo-Vallejo Ferry Company had serious competition on its Carquinez Straits run

and that in order to remove this competition it thought best to buy out the competitor and in so doing it was necessary to take the Mare Island run, as well as the Carquinez Straits run.

The depreciation rates permitted by federal authority in computing income taxes can not be accepted as a basis for this Commission in fixing proper depreciation charges when fixing rates. The amount to be charged annually to operating expenses to cover depreciation of the plant, according to our engineer's estimate is \$1,103 calculated on a 5 per cent sinking fund basis from the date various items were installed in this service. He carried forward the sinking fund curve from the date of his appraisal and when rates are to be established on the above basis this is a correct method to follow in order to arrive at the allowance for depreciation.

Had this basis been followed throughout the life of the property and proper accounts kept, there would be on the books of applicant, according to Mr. Weeks' estimate, a depreciation reserve of \$20,345 to cover in part the retirement of the cost of the Mare Island run properties. Though this reserve does not exist, nevertheless, applicant should appropriate at least \$1,035 of the allowance for fair return and credit the same to its reserve for accrued depreciation.

#### **Income and Return.**

Under present rates, we estimate the revenues of applicant at \$25,000, the rent of buildings at \$480, making a total of \$25,480. The operating expenses, including taxes for the ensuing year, are estimated at \$25,137.36. Deducting the estimated expenses from the estimated revenues, leaves a balance for depreciation and return of \$342.64. The amount remaining for depreciation and fair return is unreasonably low and warrants the Commission granting such increase of rates as herein specified. Using 500,000 round trips per year and assuming that the rate of fare will not affect the number of passengers, which is a reasonable assumption for small changes in rates, it is concluded that single trip tickets at three cents each sold in strips of approximately twenty-five is a fair and reasonable rate for the passengers who ride back and forth daily and that single tickets should be sold at the convenient rate of five cents.

The following form of order is recommended:

#### **ORDER OF REHEARING.**

Rodeo-Vallejo Ferry Company having applied for permission to increase its passenger fares between Vallejo and Mare Island, public hearings having been held, the matter having been submitted and ready for decision and it appearing that transferable single trip tickets at three (3) cents each sold in strips of approximately twenty-five tickets and single tickets at five (5) cents per single ticket are fair and reasonable rates under certain conditions hereinafter specified;



*It is hereby ordered*, that Rodeo-Vallejo Ferry Company be and it is hereby permitted to increase its passenger fares applying between Vallejo and Mare Island from two and one-half cents per one-way trip to five cents per single trip, provided transferable single trip tickets, unlimited as to expiration, are also sold at the rate of three (3) cents each in strips of approximately twenty-five tickets.

The authority herein granted to increase rates will not become effective until Rodeo-Vallejo Ferry Company has filed with the Commission in satisfactory form a stipulation duly executed by its board of directors agreeing to credit its reserve for accrued depreciation, created to retire properties in service between Vallejo and Mare Island for the year ending December 31, 1923, with at least the sum of \$2,138 and each year thereafter with a like amount, plus 5 per cent per annum on the sum in the reserve resulting therefrom, except as said sum may be modified because of changes in the depreciable property of applicant, or be modified by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of May, 1923.

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DECISION No. 12165.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS FIRST AND UNIFIED MORTGAGE GOLD BONDS, SERIES "A", SIX PER CENT OF THE PAR VALUE OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

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Application No. 9038.

Decided June 1, 1923.

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*Chickering & Gregory*, by *Allen L. Chickering*, for Applicant.

BY THE COMMISSION.

OPINION.

Western States Gas and Electric Company asks permission to issue and sell, at not less than 90 per cent of their face value plus accrued interest, \$2,500,000 of its first and unified mortgage Series "A" 6 per cent gold bonds due March 1, 1947, for the purpose of obtaining funds to enable it to proceed with the construction of the first unit of its El Dorado project and to pay part of its ordinary construction expenditures during 1923.

A public hearing was held on May 29, 1923, before Examiner Fankhauser in San Francisco.

Applicant is engaged in building a hydro-electric generating plant on the South Fork of the American River, known as the El Dorado project,

which will have an ultimate capacity of 100,000 horsepower. By Decision No. 10118, dated February 21, 1922, as amended, the company was authorized to execute a mortgage and to issue and sell \$5,000,000 of Series "A" first and unified mortgage bonds for the purpose of financing the cost of the first unit of the proposed development, which at that time was estimated at \$4,249,276.

This estimate has been revised and is now reported at \$6,356,840, the increase of \$2,107,564 being due, so testimony herein shows, to changes in original plans, to unforeseen difficulties and to the fact that the first estimate was unduly low. The record shows that based on the present estimate applicant will need \$1,931,840 in excess of the amount received from the \$5,000,000 of bonds sold pursuant to Decision No. 10118, as amended, to complete the construction of the first unit of the El Dorado power project.

The company also plans to use proceeds from the sale of the bonds for which application is herein made, to finance in part its expenditures for extensions, additions and betterments to its plants and properties in addition to the El Dorado project. It appears that on January 11, 1923, applicant filed a statement with the Commission, in which it estimated its 1923 ordinary construction expenditures at \$981,300, as shown in Decision No. 11579, dated February 3, 1923. It now estimates that it will be called upon to expend for these purposes about \$1,379,300, the increase being caused by the necessity of installing a 5000 kilowatt unit in its Eureka steam plant to better take care of the demand for service and also additional electric transmission and distribution equipment in the Stockton division, all as set forth in some detail in its Exhibit No. 5.

#### ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 90 per cent of their face value, plus accrued interest, \$2,500,000 of its first and unified mortgage Series "A" 6 per cent gold bonds due March 1, 1947, for the purpose of financing in part the cost of constructing the first unit of its El Dorado power project referred to in Applicant's "Exhibit No. 6," and the cost of the extensions, additions and better-

ments referred to in applicant's "Exhibit No. 5" filed with the application.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,750, and will expire on December 15, 1923.

Dated at San Francisco, California, this first day of June, 1923.

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DECISION No. 12171.

IN THE MATTER OF THE APPLICATION OF T. H. DASSEL, TRANSACTING A TELEPHONE BUSINESS UNDER THE NAME AND STYLE OF MORGAN HILL TELEPHONE COMPANY, FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR TELEPHONE SERVICE.

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Application No. 8540.

Decided June 4, 1923.

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RATES—TELEPHONE SERVICE.—Application for an increase of rates denied, and a uniform schedule of rates is ordered into effect. Applicant ordered to remove existing discriminations in rates in favor of subscribers owning certain equipment by purchasing such equipment, or installing applicant's own equipment, and collecting the uniform rates from all subscribers prescribed by Commission. Applicant instructed to file monthly statements of revenue and expenses under the Commission's uniform classification of accounts for Class C companies until further order.

*Harry E. Smith, of F. J. Hamby and Harry E. Smith, for Applicant.*

*WHITTLESEY, Commissioner.*

OPINION.

This is an application filed December 29, 1922, by T. H. Dassel, transacting a telephone business under the name of Morgan Hill Telephone Company, for an order of this Commission authorizing an increase in rates for telephone service. Applicant also requested that the Commission make an appraisal of his properties.

A supplemental application in this proceeding was filed by Mr. Dassel on March 1, 1923, in which applicant requested that the Commission determine and make effective rules and regulations covering installations of telephones, supersedure or change charges, mileage charges or rates for suburban service, and also that existing discriminations relative to service to certain subscribers, as set forth in the application, be corrected.

The two applications in this proceeding were heard at San Jose on March 30, 1923.

Applicant operates a magneto type of telephone exchange in the town of Morgan Hill and serves thirty-nine business subscribers and one hundred and seventy-eight resident subscribers in Morgan Hill and throughout the adjacent territory.

The applicant submitted an inventory of the physical properties which was checked by Assistant Engineer F. M. Casal and found to be substantially correct. A reproduction cost, based on historical prices, of the operative physical properties as of January 1, 1923, determined by Mr. Casal, was found to be \$4,888.

In this proceeding the Commission will determine a rate base for a year's period from June 1, 1923, to June 1, 1924, upon which to fix reasonable rates, and fix rules and regulations relative to service rendered by the applicant.

The rate base as found reasonable for this year period is \$5,823. The details of this figure are set forth in Table I following.

TABLE I.  
RATE BASE.

Average for Period From May 1, 1923-May, 1924.

<i>Intangible capital—</i>	
Franchises -----	\$105 00
<i>Tangible capital—</i>	
Central office equipment -----	\$690 00
Station apparatus -----	1,160 00
Station installation -----	186 00
Private branch exchanges -----	49 00
Booths and special fittings -----	62 00
Exchange pole lines -----	1,014 00
Exchange aerial cable -----	114 00
Exchange aerial wire -----	1,271 00
Exchange underground conduits -----	16 00
Exchange underground cable -----	71 00
Office furniture and fixtures -----	54 00
General tools and implements -----	96 00
Total tangibles -----	\$4,783 00
Total as of January 1, 1923 -----	\$4,888 00
Average additions and betterments, January 1, 1923, to June 1, 1924 -----	325 00
Materials and supplies -----	360 00
Working cash capital -----	250 00
Rate base -----	\$5,823 00

Applicant, in his annual report to the Commission, shows for the calendar year of 1922, a total revenue of \$3,458.78, and a total expense of \$3,402.56, leaving a net operating revenue of \$56.22, from which the taxes amounting to \$165.16 are deductible, resulting in an operating loss of \$108.94.

Applicant has not, however, kept an accurate accounting record, and revenue and expense statements referred to above have little value.

Applying the present rates of the subscribers receiving exchange service during the year 1922, would result in a revenue of \$2,335. Applicant also received the sum of \$27, covering revenue from local 5 cent calls and installation charges, making a total exchange revenue of \$2,362.

The Pacific Telephone and Telegraph Company pays applicant a commission of thirty per cent on the toll business originating at Morgan Hill, and, according to statements rendered to applicant from The Pacific Telephone and Telegraph Company, the total amount of this revenue for the year 1922 amounted to \$3,901.35. The commission on this sum paid to applicant amounts to \$1,170.40.

From an inspection of the applicant's records and operating methods, a total reasonable expense which applicant should have incurred during the year 1922, exclusive of depreciation, which I believe should be allowed, is \$3,147. State taxes for this period will amount to \$165, and uncollectible bills computed at the rate of one-half of one per cent will amount to \$18. The revenue and expenses which appear to be a reasonable result from the operations during the calendar year of 1922, are shown in detail under Table II.

TABLE II.  
Operating Revenue and Expenses, 1922—Determined by Railroad Commission.

*Revenues—*

Exchange revenues .....	\$2,362 00
Toll revenues .....	1,170 00
Miscellaneous revenues .....	30 00
<b>Total .....</b>	<b>\$3,562 00</b>

*Expenses—*

Repairs to wire plant .....	\$950 00
Repairs to equipment .....	130 00
Operations .....	1,580 00
Other traffic expense .....	126 00
General office salaries .....	100 00
Other general expense .....	261 00

**Total, excluding depreciation .....** **\$3,147 00**

Net operating revenue .....

Deductions: Taxes .....

Uncollectible bills .....

**Total .....** **183 00**

**Balance .....** **\$232 00**

The Commission by a resolution adopted on September 23, 1921, directed all telephone companies subject to its jurisdiction, having average annual operating revenues of \$50,000 or less to keep on and

after January 1, 1922, their accounts and records in accordance with the uniform system of accounts for telephone companies prescribed by the Interstate Commerce Commission for Class C companies. Applicant will be required to file with the Railroad Commission monthly reports. Such reports shall show

A—Revenues :

- Exchange revenues
- Toll revenues
- Miscellaneous revenues
- Total

B—Operating expenses and tolls:

- Repairs of wire plant
- Repairs of equipment
- Station removal and changes
- Depreciation of plant and equipment
- Other maintenance expenses
- Operators' wages
- Other traffic expenses
- General office salaries
- Other general expenses
- Taxes

Total

C—Balance:

The uniform system of accounts for Class C companies defines the revenues, operating expenses and taxes to be included under each item.

The estimated revenue during the period herein considered, assuming the same number of subscribers as existing at present, as it appears there will be very little, if any, increase and also assuming the present rates, will amount to \$2,362 for exchange service, \$1,270 for toll service, and \$60 for miscellaneous revenues, making a total revenue of \$3,692.

Applicant at present is operating an emergency night service and requests that an item of \$900 per year be allowed in future estimates to cover salary to an additional operator in order that night service might be rendered. I do not believe that continuous night service is required, but that emergency service is essential and to properly provide for such emergency service I recommend that an annual allowance of \$100 be made for the hiring of occasional relief operators as occasion may require.

The sum of \$100 per month will be allowed for services of applicant, 90 per cent of which shall be charged to operating expenses and 10 per cent to capital account. An amount of \$15 per month will also be allowed for a bookkeeper who will be required in keeping proper records, and also a like sum on account of automobile expense. On this basis, a reasonable amount of operating expenses, exclusive of

depreciation, for the year commencing June 1, 1923, is set forth under Table III.

TABLE III.

Estimated Operating Revenue and Expense, June 1, 1923 - June 1, 1924.

*Revenue (present rates assumed)—*

Exchange revenue .....	\$2,362 00
Toll .....	1,270 00
Miscellaneous revenue .....	60 00
<b>Total .....</b>	<b>\$3,692 00</b>

*Expense—*

Maintenance .....	\$1,810 00
Operation .....	2,356 00

Grand operating expense excluding depreciation..... \$3,666 00

Net operating revenue ..... \$26 00

Deductions: Taxes ..... \$196 00

Uncollectible bills ..... 17 00

**Total .....** **213 00**

**Balance (loss) .....** **\$187 00**

It is apparent from the balance of \$187 (loss), as shown in Table III above, that the return upon investment is insufficient, the present rates are unreasonable, and that the applicant is entitled to an increase in rates if it is expected that satisfactory service is to be rendered.

Applicant filed the following schedule of proposed rates, which he requested the Commission to authorize:

*Business Service:*

	Wall	Desk
One-party, per month.....	\$3 00	\$3 25
Two-party, per month.....	2 50	2 75
Private branch exchange switchboard, per month.....	5 00*	
Extension stations, per month.....	1 00*	

*Residence Service:*

One-party, per month.....	2 50	2 75
Two-party, per month.....	2 00	2 25
Four-party, per month.....	1 75	2 00
Farmers' stations—subscribers' telephone, per year.....	18 00*	
Farmers' stations—company telephone, per year.....	21 00*	
Minimum for three farmers' stations on one line, per year.....	72 00*	
Minimum for one farmers station on one line, per year.....	30 00*	

It is apparent that the exchange revenue to be derived from applicant's proposed schedule of rates would be excessive if there were no decrease in the number of patrons and no regrading of service after rates were changed, but the regrading and orders for discontinuance

\*Heading "Wall" does not apply.

which would inevitably follow placing such a schedule in effect would very probably defeat the object sought by applicant, and it is my opinion that such application should be denied.

The revenue from the exchange rates, as hereinafter set forth in the order, applied to the service for the year commencing June 1, 1923, together with toll and miscellaneous revenues as above estimated, should result in an amount for interest on investment and depreciation of \$520, which is 8.9 per cent of the rate base herein determined.

Applicant at present has no definite rules and regulations regarding service. Applicant should have rules and regulations affecting service, similar to those now on file by other companies operating under similar conditions.

It appears that there is discrimination practiced by which seven subscribers within one mile radius of the central office are provided with farmer line service at a rental of \$3 per year. For this, however, the applicant is not responsible, as the present arrangement was effective prior to the time the applicant acquired ownership of the exchange and has continued in force since that time. It is my opinion that, in fairness to other persons within the same area, this discrimination should be removed, by the applicant reimbursing the subscribers who now have this preferential rate for their investments in lines and telephones, thus acquiring ownership of all exchange lines within the one mile radius from the central office and applying his regular rates to all subscribers within that area.

#### ORDER.

Application having been made to this Commission by T. H. Dassel, owning and operating a telephone system under the name and style of Morgan Hill Telephone Company, for permission to raise his rates or rental charges for telephone service, and a public hearing having been held, the matter submitted, and it appearing to the Railroad Commission that the rates at present charged for telephone service by this applicant are unjust and unreasonable rates; and it appearing further, that the rates requested by applicant, as set forth in the application, are unjust and unreasonable rates.

*It is hereby ordered,* that the application be and hereby is denied.

*It is hereby further ordered,* that applicant, T. H. Dassel, be and hereby is authorized to charge and collect the following schedule of rates, which are just and reasonable rates, for exchange service rendered on and after July 1, 1923, provided, that these rates are filed with the Railroad Commission on or before July 1, 1923.



**EXCHANGE SERVICE—SCHEDULE A-1.***General Service.*

Applicable to individual and party line flat rate service within the primary rate area, which includes all territory within a one mile radius from company's central office.

Rate. Class of Service—	Rate per month per station			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
Individual line station-----	\$2 75	\$3 00	\$2 25	\$2 50
Two-party line station-----	2 25	2 50	2 00	2 25
Four-party line station-----			1 75	2 00
Extension (with or without bell)-----	1 00	1 00	1 00	1 00

**EXCHANGE SERVICE—SCHEDULE A-2.***Farmer Line Service.*

Applicable to farmer line service outside the primary rate area.

Rate. Class of Service—	Rate per year per station	
	Business service	Residence service
Telephone instrument owned by subscriber----	\$10 80	\$5 40
Telephone instrument owned by company-----	-----	8 40

*Minimum Charge.*

The minimum charge is \$27 per year per circuit.

*Conditions.*

- (1) The company installs, owns and maintains at its expense the necessary central office equipment and service, line facilities to the boundary of the primary rate area, one listing in the directory and a code ring card.
- (2) The subscriber installs, owns and maintains at his expense the necessary facilities from the company line at the boundary of the primary rate area to the subscriber's instrument.
- (3) The complete instrument and battery to be owned and maintained either by the company or subscriber, depending on the rate selected.

**EXCHANGE SERVICE—SCHEDULE A-3.***Suburban Service.*

Applicable to suburban party line service of not more than 10 parties per circuit within the exchange area outside the primary rate area.

Rate. Class of Service—	Rate per month			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
Suburban service -----	\$3 50	\$3 75	\$3 00	\$3 25

*Conditions.*

- (1) Suburban circuits will be constructed, installed, owned and maintained entirely at the expense of the company, providing the farthest service to be rendered is located within a distance of 5 miles (air line distance) from the nearest point on the primary rate area boundary, and further, providing that each circuit shall average not less than 2 subscribers per mile with a minimum of 5 subscribers per circuit.

**EXCHANGE SERVICE—SCHEDULE A-4.***Mileage Rates.*

Applicable to general and private branch exchange service inside and outside the primary rate area.

*Rate.***A—Outside Primary Rate Area.**

Business and residence service.

- |  |                 |   |
|--|-----------------|---|
| (a) Individual line, including trunk lines for private branch exchange and intercommunicating systems_ | \$0 50 per line | Monthly rate per quarter mile or fraction thereof (air line distance) |
| (b) Two-party line-----  | 35 per station  |   |
| (c) Four-party line -----  | 25 per station  |   |

**B—Inside Primary Rate Area.**

Business and residence service.

For stations outside premises on which primary station  
or private branch exchange is located..... \$0 50 per station

Monthly rate per  
quarter mile or  
fraction thereof  
(circuit mileage)

**Conditions.**

- (a) The charge for service under Rate A above, "Outside the Primary Rate Area," is in addition to the regular flat rate charges.
- (b) The charge for service under Rate B above, "Inside the Primary Rate Area," is in addition to the regular extension or private branch exchange station rates.

**EXCHANGE SERVICE—SCHEDULE A-5.****Private Branch Exchange Service.**

Applicable to business flat rate service requiring a private branch exchange inside or outside primary rate area.

**Rate.**

- |   | Rate per month      |
|---|---------------------|
| (a) Switchboard, cord, with battery power, ringing circuit and switchboard telephone for each position..... | \$3 00 per position |
| (b) First both-way trunk line.....  | 3 75                |
| Each additional both-way trunk line.....  | 3 00                |
| (c) Primary or extension, wall or desk set.....   | 1 00 per station    |

**Conditions.**

- (1) If the private branch exchange or any station is located outside the primary rate area then the mileage rates will apply in addition to the above rates for such lines as are located outside the primary rate area.

**EXCHANGE SERVICE—SCHEDULE A-6.****Contact Rentals.**

Attachments to the poles of the company are available to farmer line associations where facilities are available.

**Rate.**

	Annual rental per attachment
Metallic telephone circuits .....	\$0 05
Grounded telephone circuits .....	10

**Conditions.**

- (1) Attachment charges will be billed from date attachments are made to end of the year and annually in advance thereafter.
- (2) Where attachments of telephone wires involve placing of brackets, the brackets and insulators shall be furnished and placed at expense of the farmer line association.
- (3) Where attachments of telephone wires involve use of crossarms, the insulators shall be furnished and placed at expense of the farmer line association.

**EXCHANGE SERVICE—SCHEDULE A-7.****Supplemental Equipment.**

Rates for extra equipment requested by subscriber.

**Rate.**

	Installation charge	Rate per month
(1) Extension bell, 2½-inch.....	\$1 25	\$0 25
(2) Extension bell, 6-inch.....	1 50	35
(3) Installation or renewal of desk set cords exceeding 6 feet in length but not more than 10 feet.....	1 00	-----

**EXCHANGE SERVICE—SCHEDULE A-8.****Public Pay Station Service.**

Service from company's nonlisted public telephone station.

**Rate.**

Each exchange message ..... \$0 05

## EXCHANGE SERVICE—SCHEDULE A-9.

*Directory Listing.*

Charges for directory listing in addition to that to which subscriber is entitled under the regular rates for service.

*Rate.*

- (1) Each subscriber is entitled without charge to one listing in the telephone directory.  
Private branch exchange subscribers are entitled, without charge, to one listing for each trunk line.
- (2) Each listing in addition to that specified under (1) above shall be at the following rate:
 

(a) Member of same firm or business	_____	\$0 25 per month
(b) Joint user	_____	1 50 per month
(c) Individual residing at a residence, listed at that residence	_____	25 per month

*Conditions.*

- (1) Joint user means individual not connected with the firm or business who is the subscriber of record.
- (2) Requests for additional listing shall be made by the subscriber of record.

*It is hereby further ordered,* that applicant, T. H. Dassel, be and hereby is directed to remove existing discrimination as set forth in the opinion preceding this order in the following manner:

Applicant shall furnish and install at its own expense all necessary equipment for service to all subscribers in the primary rate area (defined as a circle of one mile radius with center at applicant's central office) and thereafter serve such subscribers and charge and collect for such service the rates prescribed herein.

Provided that in all cases where subscribers have heretofore furnished their own extension lines, telephone instruments and other equipment, applicant may purchase such lines, instruments and equipment instead of installing other equipment in lieu thereof.

A statement shall be submitted by applicant within thirty days of the date of this order to the Railroad Commission for the Commission's approval, setting forth a detailed description of the property proposed to be purchased and the price to be paid for the same.

*It is hereby further ordered,* that applicant, T. H. Dassel, be and hereby is directed to file with the Railroad Commission on or before the fifteenth day of each month following the effective date of this order a statement showing revenues and expenses for the period of the preceding month, prepared as indicated in the preceding opinion, and in accordance with the classification of accounts as prescribed for Class C companies, such statements to be filed until further informal order of this Commission.

*It is hereby further ordered,* that applicant be and hereby is directed to file with the Railroad Commission on or before July 1, 1923, such rules and regulations affecting service, and within such period of time as this Commission may from time to time informally require.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of June, 1923.

DECISION No. 12172.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A SECOND MAIN TRACK, TOGETHER WITH THE NECESSARY APPURTENANCES ALONG, UPON AND ACROSS CERTAIN STREETS, PORTIONS OF STREETS, AND OTHER PLACES, AND ACROSS CERTAIN TRACKS OF SOUTHERN PACIFIC COMPANY AND BAKERSFIELD AND KERN ELECTRIC RAILWAY COMPANY, IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA.

Application No. 8996.

Decided June 5, 1923.

GRADE CROSSINGS—SEPARATION OF GRADES—AUTOMATIC FLAGMEN REQUIRED—PERMISSION TO CROSS UNION AVENUE GRANTED SUBJECT TO SUBSEQUENT ORDER.—In this order The Atchison, Topeka and Santa Fe Railway Company is granted permission to construct a second main line track across thirty-one streets in the city of Bakersfield.

Automatic flagmen are ordered installed and maintained for the protection of crossings of East Nineteenth, Fremont, S, O, P, N, M and L streets. Automatic flagmen now installed at Sumner, Baker, K, I, H and G streets ordered connected with the second track herein authorized.

This order shall not be deemed an authorization for the construction or opening of Robinson, King, Eureka, Tulare and R streets to public use across said railroad track.

Permission to construct a second main line track across Union avenue is made subject to conditions that shall hereafter be directed by subsequent order relating to separation of grades of Union avenue and the first main line track of The Atchison, Topeka and Santa Fe Railway Company.

*E. T. Lucey*, for Applicant.

*E. F. Brittan*, City Attorney, for City of Bakersfield.

MARTIN, *Commissioner*.

OPINION.

In this application The Atchison, Topeka and Santa Fe Railway Company, a corporation, asks authority to construct thirty-one crossings at grade in the city of Bakersfield, all of these crossings being located upon a proposed second main line track, which applicant proposes to construct between Bakersfield station and Kern Junction.

The original application did not cover a crossing of the second track with the double-track street railway line of the Bakersfield and Kern Electric Railway located in Chester avenue, nor for the crossing with a Southern Pacific track at Kern Junction. When applicant was advised that this application did not cover these matters it stated that

it would file a supplemental application, which has been done. From this supplemental application it appears that neither the Bakersfield and Kern Electric Railway Company or Southern Pacific Company object to the crossings with their respective tracks.

A public hearing was held on May 11, 1923, in Bakersfield.

Applicant stated that the construction of this second track was made necessary by the increased volume of business which increased traffic both in the past and as expected in the future.

The engineering department of the Commission presented the results of its investigation and made recommendations with respect to each of the crossings involved. These are briefly as follows:

*Halcy street*—There are across this street at this time seven Southern Pacific, three Santa Fe and two Sunset Railway tracks, and although the traffic apparently is not heavy on Halcy street the railroad traffic across the street is unusually heavy due to the fact that it is across the Southern Pacific yard. It was provided that applicant would submit a traffic count but this has not yet been done. The matter of protection at this crossing will be decided after this count has been filed.

*Sumner street* is an east and west paved street, the crossing now being protected by an automatic flagman. This should be connected with the second track when installed and the movements of trains on other tracks across this street should be flagged by members of the train crews.

*Robinson street* is not physically opened across the railroad.

*Gage street* is a dirt street carrying a very light traffic; the view is unobstructed and no special protection appears necessary at this time.

*Owens street* is also a dirt street carrying a very light traffic and our engineer's testimony is that this street could be closed, but if not, no special protection is necessary.

*East Nineteenth street* is the extension of one of the principal streets of Bakersfield, but at the point of crossing is not of more than ordinary importance. The view is clear and unobstructed, but the street crosses the railroad at an angle of about thirty degrees and it appears that an automatic flagman should be provided.

*Beale avenue* is a dirt street with a very light traffic intersecting East Nineteenth street just north of the railroad. It appears as though this street could be closed and the traffic diverted to East Nineteenth street. If this is not done no special protection is necessary.

*King street* is not physically opened across the tracks.

*Fremont street* is paved west of the railroad, which it crosses at an angle of about thirty degrees. The traffic is moderately heavy and, although the view is open and unobstructed, the angle of intersection and other conditions indicate that this crossing should have the protection of an automatic flagman.

*Baker street*, somewhat north of the Santa Fe tracks, is an important thoroughfare, but at the crossing carries but a moderate vehicular traffic. The present main line track is now protected by an automatic flagman, which, of course, should be connected with the second track.

*East Truxton avenue*—The evidence indicates that while this street is not now important, the plans of the city as to paving will probably result in this highway being heavily traveled. The crossing is at an angle of about ten degrees so that the railroad requires about 800 feet to cross, Truxton avenue, being 115 feet wide. Our engineer has recommended that additional right of way be acquired by the railroad for street purposes just north or south of the tracks and that Truxton avenue be diverted to this new right of way; the traffic to cross the railroad at the Fremont or Eureka street crossings. The city is opposed to this suggestion and it appears as though there is no necessity for making this change at present.

*Kern street* carries an extremely light traffic. The evidence indicates that this crossing should be closed and the traffic diverted to Baker street.

*Eureka street* is not opened across the tracks.

*Tulare street* is not opened across the tracks.

*Inyo street* carries a light traffic. The view is clear and unobstructed in all directions and no special protection is necessary.

*Dolores street* intersects the railroad at the same point as Inyo street and the two really constitute one crossing.

*Sonora street* also carries a light traffic and the crossing is somewhat obscured as to view. If possible, this street should be closed, particularly in view of its close proximity to Union avenue, 400 feet westerly.

*Union avenue* is a wide dirt street. In Case No. 1870, now under submission, the City of Bakersfield asks for an order directing that the street and railway grades be separated. The order herein will be made contingent upon the decision in Case No. 1870.

*S street* carries a moderate traffic and the view is practically unobstructed. In view of further improvements, however, it appears that an automatic flagman should be installed for the protection of the crossing of both main tracks.

*R street* is not opened across the Santa Fe.

*Q street* carries an extremely light traffic and the traffic should be diverted to P street. If this is not done no special protection appears to be necessary at this time.

*P street* carries a moderate traffic, with the view obstructed on one corner. An automatic flagman should be installed for the protection of this crossing.

*O street* carries a moderate traffic. The view is partially obstructed and an automatic flagman should be installed.

*N street* is a fairly important industrial street, carrying a moderate traffic and, while the view is not seriously obstructed, an automatic flagman should be installed.

*M street* is quite important and although the view is fairly unobstructed the street has been paved except across the tracks, and an automatic flagman should be installed.

*L street* is quite similar to M street and should have the same protection.

*K street* is a reasonably important street, the crossing of which is now protected by an automatic flagman, which should, be connected to the second track.

*Chester avenue* is the most important north and south street in the City of Bakersfield, carrying some 3000 vehicles a day and a street car line. At present this crossing is protected by an automatic flagman located in the northwest corner of the intersection. The street is very wide and with the construction of a second main line track an additional automatic flagman should be installed on the south-east corner, each to be connected to both main tracks.

*I, H, and G streets* are fairly important streets at present protected by automatic flagmen. This protection seems to be adequate if extended to the new main track.

The city of Bakersfield objected to the suggested closing of any crossings and in view of the public hazard to be reduced because of the light traffic, at the present time, it does not appear as though the closing of these crossings should be pressed at this time. At the same time we desire to call to the attention of the city of Bakersfield that, from our experience in other cities, the future will probably show the wisdom of the suggested rearrangement of streets and crossings before the territory is built up.

The railroad made no objection to the special protection above indicated.

The following form of order is recommended:

**ORDER.**

The Atchison, Topeka and Santa Fe Railway Company, a corporation, having applied to the Commission to construct certain crossings at grade in the city of Bakersfield as hereinafter indicated, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct a second main track at grade across the following streets in the city of Bakersfield:

Haley street	Dolores street.
Sumner street	Sonora street
Robinson street	S street
Humboldt street	R street
Gage street	Q street
Owens street	P street
East Nineteenth street	O street
Beale avenue	N street
King street	M street
Fremont street	L street
Baker street	K street
East Truxton avenue	Chester avenue
Kern street	I street
Eureka street	H street
Tulare street	G street
Inyo street -	

All of the above as shown by the map (Division Engineer's Drawing V-24-37) attached to the application, said crossings to be constructed, subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings of Haley, Sumner, Humboldt, Gage, Owens, East Nineteenth, Fremont, Baker, Kern, Inyo, Dolores, Sonora, S, Q, P, O, N, M, L, K, I, H, and G streets and Beale, East Truxton, and Chester avenues shall be constructed of a width and type of construction to conform to those portions of said streets now graded, with the top of rails flush with the pavement, and with grades of approach not in excess of two (2) per cent, shall each be protected by a suitable sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Said crossings of Robinson, King, Eureka, Tulare, and R streets shall be so constructed that grades of approach not exceeding four (4) per cent will be feasible in the event that the construction of roadway along said Robinson, King, Eureka, Tulare and R streets shall here-

after be authorized and so that said grade crossings may be made safe for the passage thereover of vehicles and other road traffic.

(4) Automatic flagmen shall be installed and maintained for the protection of said crossings of East Nineteenth, Fremont, S, O, P, N, M and L streets. An additional automatic flagman shall be installed for the protection of Chester avenue. Said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Commission.

(5) Automatic flagmen now installed at Sumner, Baker, K, I, H and G streets shall be connected with the second track herein authorized.

(6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(7) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(8) This order is made upon the express condition that Robinson, King, Eureka, Tulare and R streets are not now actually constructed and open to travel at the respective points of crossing, and said order shall not be deemed an authorization for the construction or opening of said streets to public use across said railroad track.

(9) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

*It is hereby further ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct a second main track across Union avenue, in the manner and subject to the conditions that shall hereafter be directed by subsequent order herein.

*It is hereby further ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct a second main track at grade, across two tracks of Bakersfield and Kern Electric Railway Company, located in Chester avenue as shown by the map (Division Engineer's Drawing V-24-37) attached to the application, said crossings to be constructed, subject to the following conditions, viz:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class condition shall be borne by Bakersfield and Kern Electric Railway Company.

(2) All trains, motors and cars of Bakersfield and Kern Electric Railway Company shall stop before crossing the tracks of The Atchison,



Topeka and Santa Fe Railway Company and shall not proceed there-over until it has been ascertained by the conductor that it is safe so to do.

(3) Applicant shall, within thirty (30) days thereafter, notify the Commission, in writing, of the completion of the installation of said crossings.

(4) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission, if in its judgment, the public convenience and necessity demand such action.

*It is hereby further ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct its second main track at grade across that certain track of Southern Pacific Company in the vicinity of Kern Junction, located at a point thirteen feet southerly, more or less, from the center line of the existing eastbound main track of said Southern Pacific Company, opposite Engineer Station (Southern Pacific Company) 11634 plus 60.

All of the above, as shown by the map (Engineer's Drawing No. V-24-37), attached to the application; said crossing to be constructed, subject to the following conditions:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first-class condition shall be borne by applicant.

(2) The operation of all locomotives, trains, cars or motors over the crossing shall be protected by the interlocking plant at Kern Junction in accordance with plans or data approved by the Commission.

(3) Applicant shall within sixty (60) days of the date of this order file with the Commission a duly executed agreement with said Southern Pacific Company covering the terms of installation and maintenance of said crossing and operation thereover.

(4) Applicant shall within thirty (30) days thereafter notify this commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to

revoke its permission if, in its judgment the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of June, 1923.

DECISION No. 12173.

CITY OF PALO ALTO ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1899.

Decided June 5, 1923.

*Norman E. Malcolm*, City Attorney, City of Palo Alto, for Complainant.  
*J. E. Lyons*, for Defendant.

*WHITTLESEY*, Commissioner.

#### OPINION.

In this proceeding city of Palo Alto asks that the Commission direct the defendant to maintain a human flagman at the Embarcadero road crossing in the city of Palo Alto between the hours of 7 a.m. and 11 p.m., instead of from 7.45 a.m. to 3.45 p.m.

A public hearing was held in Palo Alto on May 31, 1923.

There are four grade crossings in the city of Palo Alto: Palo Alto avenue crossing, at the north side of the city; University avenue, four-tenths of a mile south thereof and near the station; the Embarcadero road crossing, approximately five-tenths of a mile south of University avenue; and Churchill avenue, approximately three-tenths of a mile south of Embarcadero road. Southern Pacific Company's double track is straight through the city of Palo Alto and carries a scheduled traffic of forty-nine passenger trains and eight freight trains daily and in addition there are extra freight trains.

The following traffic counts indicate the highway traffic at the Embarcadero road crossing:

Count of Complainant	Date	Day	Time	Number of	
				Vehicles	Pedestrians
	5-17-23	Thursday	8 a.m.—11 p.m.	2193	768
	5-18-23	Friday	8 a.m.—11 p.m.	2317	748
	5-19-23	Saturday	8 a.m.—11 p.m.	1848	164
Defendant	5-20-23	Sunday	6 a.m.—10 p.m.	2139	184
	5-23-23	Wednesday	6 a.m.—10 p.m.	2702	786

During the hearing complainant announced that it was agreeable to the city and to the Southern Pacific Company to move one shift

of human flagmen from the Palo Alto avenue crossing, near San Francisco creek, to the Embarcadero road crossing and install an automatic flagman at the Palo Alto avenue crossing. This would provide the protection desired at the Embarcadero road crossing and satisfy the complaint.

There seems to be no doubt but that the additional protection asked for by the city is warranted. However, since the authority to maintain a temporary grade crossing at Palo Alto avenue granted by the Commission in Decision No. 9338, in Application No. 3708, expires July 1, 1923, and since also the effective date of the construction of the subway at Palo Alto avenue involved in Application No. 352 is also June 30, 1923, it does not appear desirable at this time to change the protection of Palo Alto avenue. That should be done, if at all, when Applications Nos. 352 and 3708 are again before the Commission. At the hearing it was stated that an application for further extension of time would be made in Application No. 3708.

It is therefore concluded that Southern Pacific Company should increase the protection at the Embarcadero road crossing to the hours of from 7 a.m. to 11 p.m., instead of from 7.45 a.m. to 3.45 p.m. as at present, but that no change should be made in the protection at the Palo Alto avenue crossing.

The following form of order is recommended:

#### ORDER.

A public hearing having been held in the above entitled matter, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that Southern Pacific Company be and it is hereby directed to provide for the protection of the Embarcadero road crossing of the Southern Pacific Company's tracks in the city of Palo Alto a human flagman between the hours of 7 a.m. and 11 p.m.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of June, 1923.

## DECISION No. 12177.

IN THE MATTER OF THE APPLICATION OF TURLOCK HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING EXECUTION OF MORTGAGE AND A SECOND DEED OF TRUST TO SECURE THE PAYMENT OF NOTES.

Application No. 9062.

Decided June 5, 1923.

*Samuel V. Cornell*, for Applicant.

BY THE COMMISSION.

## OPINION.

The Railroad Commission is asked to make an order authorizing the Turlock Home Telephone and Telegraph Company to issue notes not exceeding \$25,150 face value for the purpose of paying and refunding indebtedness and execute a mortgage and a deed of trust to secure the payment of the notes.

A hearing was had on this application before Examiner Fankhauser at San Francisco.

The Railroad Commission by Decision No. 8011, dated August 27, 1920, in Application No. 5487, authorized applicant to issue notes in the face amount of \$15,000. These notes, bearing 7 per cent interest, were issued to the First National Bank and the Commercial Bank of Turlock for a period of one year. In such decision, the Commission also authorized applicant to execute a mortgage to secure the payment of the notes. In addition to the issue of the \$15,000 face amount of notes, applicant issued to the banks notes for the sum of \$1,500, making a total indebtedness of \$16,500. The company asks permission to issue to Charles R. Mollard a one-year 7 per cent note and use the \$16,500 thus obtained, to pay the indebtedness due the banks. The payment of the note which applicant intends to issue to Charles R. Mollard will be secured by a first mortgage on applicant's properties. A copy of the mortgage is on file in this proceeding and marked "Exhibit A." It is substantially the same as the mortgage executed by the company pursuant to the authority granted in Decision No. 8011, dated August 27, 1920.

Applicant is indebted to the Kellogg Switchboard and Supply Company for the sum of approximately \$8,650. This debt represents materials and supplies used in extending and reconstructing applicant's system. Applicant asks permission to issue to the Kellogg Switchboard and Supply Company a note for the sum of not exceeding \$8,650, such note to bear interest at the rate of 7 per cent per annum, to be payable one year after date and its payment to be secured by a deed of trust substantially in the same form as the deed of trust filed in this pro-

ceeding and marked "Exhibit B." The deed of trust will be a second lien on applicant's properties.

**ORDER.**

Turlock Home Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue notes in the sum of not exceeding \$25,150 and execute a mortgage and a deed of trust to secure the payment of such notes, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such notes is reasonably required by applicant and that this application should be granted as herein provided; therefore

*It is hereby ordered*, that Turlock Home Telephone and Telegraph Company be and it is hereby authorized to issue to Charles R. Mollard a one-year 7 per cent note for the principal sum of \$16,500 and to the Kellogg Switchboard and Supply Company a one-year 7 per cent note for the principal sum of not exceeding \$8,650.

*It is hereby further ordered*, that Turlock Home Telephone and Telegraph Company be and it is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed in this proceeding and marked "Exhibit A" and to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding and marked "Exhibit B."

The authority herein granted is subject to the following conditions:

1. Applicant shall realize through the issue of the note to Charles R. Mollard, the sum of \$16,500, which moneys shall be used by applicant to pay indebtedness due the First National Bank and the Commercial Bank of Turlock.

2. The note which applicant issues to the Kellogg Switchboard and Supply Company shall be issued at par to pay or refund indebtedness of equal amount payable to the Kellogg Switchboard and Supply Company.

3. The authority herein granted to execute a mortgage and a deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage and of said deed of trust as to such other legal requirements to which such mortgage and such deed of trust may be subject.

4. Turlock Home Telephone and Telegraph Company shall keep such record of the issue and delivery of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue notes will become effective upon the payment of the minimum fee required by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this fifth day of June, 1923.

DECISION No. 12178.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER WORKS,  
A CORPORATION, FOR PERMISSION TO SELL STOCK AND PAY  
OUTSTANDING NOTES.

Application No. 9063.

Decided June 5, 1923.

*Joseph R. Ryland*, for Applicant.

BY THE COMMISSION.

OPINION.

San Jose Water Works asks permission to issue and sell, at not less than par, \$255,200 of its common capital stock and to use the proceeds to pay notes aggregating \$230,200 and to reimburse its treasury in the amount of \$25,000 on account of earnings expended for extensions, additions and betterments.

A public hearing was held before Examiner Fankhauser in San Francisco.

San Jose Water Works was incorporated on or about February 1, 1916, and has an authorized capital stock of \$5,000,000, divided into 50,000 shares of the par value of \$100 each, all shares being common. It appears that at present there is \$2,401,900 of stock outstanding, of which \$1,500,000 was delivered, in part payment, for the properties of San Jose Water Company and \$901,900 was sold to finance the cost of capital additions to applicant's properties made prior to March 31, 1922.

The company reports in this application, that from March 31, 1922, to April 30, 1923, it expended for fixed capital the sum of \$324,037.06, which expenditures it segregates as follows:

Intangible capital.

Organization .....	\$263 00
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Tangible capital.

Land and buildings:

Land devoted to water operations.....	\$54,758 00	
Buildings, structures and grounds.....	5,348 37	
		\$60,107 36

Source of water supply:

Impounding dams and reservoirs.....	28,142 32	
Lake and river cribs.....	13 00	
Wells .....	15,703 54	
Canals and conduits.....	1,650 31	
		45,518 17

Pumping station equipment :		
Pumping equipment -----		37,764 98
Transmission and distribution capital :		
Transmission mains or canals-----	2,585 15	
Distribution mains or canals-----	100,935 28	
Hydrants, fire cisterns, etc.-----	1,159 42	
Services -----	17,526 54	
Meters -----	53,928 58	
		176,134 97
General capital :		
General offices equipment-----	151 00	
General shop equipment-----	763 58	
General stable and garage equipment-----	3,334 00	
		4,248 58
Total -----		\$324,037 06

The record shows that applicant has borrowed \$230,200 on short term notes and has used \$25,000 of earnings to pay or provide for a portion of these expenditures. It now requests permission to finance permanently such portion by issuing stock to pay notes and to reimburse its treasury. We believe the request should be granted, as provided in the following order:

#### ORDER.

San Jose Water Works having applied to the Railroad Commission for permission to issue and sell \$255,200 of common stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required by applicant for the purposes specified herein;

*It is hereby ordered*, that San Jose Water Works be and it is hereby authorized to issue and sell, at not less than par, not exceeding \$255,200 of its common capital stock for the purpose of financing, in part, the cost of the extensions, additions and betterments described in this application, and through such financing, pay notes aggregating \$230,200 and reimburse its treasury in the amount of \$25,000 on account of earnings expended for additions and betterments.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue stock will become effective upon the date hereof, but will expire on December 31, 1923.

Dated at San Francisco, California, this fifth day of June, 1923.

## DECISION No. 12182.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION AT GRADE OF A BRANCH LINE RAILROAD TRACK CROSSING THIRTY-FOUR COUNTY ROADS, EXTENDING FROM CALIPATRIA EAST AND SOUTH TO A POINT IN SECTION 34, TOWNSHIP 14 SOUTH, RANGE 15 EAST, SAN BERNARDINO BASE AND MERIDIAN, APPROXIMATELY 21.3 MILES, IN IMPERIAL COUNTY.

Application No. 8906.

Decided June 7, 1923.

*H. M. Hobbs and Ross T. Hickcox*, for Applicant.

*E. R. Utley*, District Attorney, for Board of Supervisors, County of Imperial.

BY THE COMMISSION.

## OPINION.

This is a proceeding in which Southern Pacific Company asks for an order authorizing the construction of thirty-four crossings at grade on a new branch line railroad track, extending easterly and southerly from Calipatria in the county of Imperial.

The applicant has been given a certificate of public convenience and necessity by the Interstate Commerce Commission authorizing the construction of the branch line itself. The present proceeding concerns only the construction of the line across the several public roads which the line proposes to cross.

A public hearing on this matter was held in the city of El Centro before Examiner Williams on May 16, 1923.

The proposed railroad is to begin just south of the city of Calipatria, where it diverts to the east from applicant's branch line extending from Niland to Calexico and beyond. After running east, parallel to and one hundred feet south of the Yuma Road, a distance of approximately five and one-half miles, the proposed railroad turns southerly for a distance of approximately six miles to the east side of No. 5 Main Canal, which it parallels on the east side for approximately two and one-half miles at which point it crosses the canal and extends south a distance of approximately seven miles to the Pepper Canal, located at the end of the paved county highway leading northerly from the city of Holtville.

The purpose of this railroad is to serve territory not conveniently accessible to existing railroads with freight service and it is anticipated that intensive farming will result in its immediate vicinity whereby the railroad will eventually derive revenue for perishable and semi-perishable products in addition to the live stock and staple products grown at the present time.

The territory in the vicinity of the proposed railroad is practically flat, sloping slightly down grade to the northwest toward Salton Sea.



Consequently none of the crossings will require any great amount of fill as the top of rail in most cases will be from three to five feet above natural ground which will enable the railroad to cross the canals without interference.

All roads which the proposed railroad is expected to cross are dirt roads. The view is clear for a great distance throughout this entire district except for a few places where trees and buildings exist. Sidings are proposed to be built across two roads, Lateral B and Moss roads, on the west side of the branch line track. Cars left standing for any length of time on these sidings should be at least two hundred feet distant from the crossings. No streets are to be crossed within the incorporated limits of any city. All crossings are at right angles or nearly so with the exception of crossing No. 1 which is approximately thirty degrees. No railroad tracks are to be crossed by the proposed railroad.

Attached to the application is a copy of Ordinance No. 66 wherein the county of Imperial grants to the railroad the right to construct, maintain and operate the proposed railroad. Provision "a" of section 2, thereof, requires that the approaches to said crossings shall be constructed on a grade not to exceed 6 per cent and shall not be less than twenty-four feet in width. Our engineer recommended that 4 per cent is the maximum allowable grade of approach and this has been the maximum grade specified in practically all decisions for several years in valley territory. It should be adhered to in this proceeding. Applicant's engineer testified that estimates were made on the basis of grade of approach of 5 per cent, and that to decrease this grade of approach would make it difficult to obtain material without going into the fields, which, he considered impractical. Also he stated that there would be some complications with roads crossing the approaches. This latter complication does not appear to be serious.

There appears to be no public necessity for crossing No. 1, Yuma road extended, as this road ends approximately three hundred feet west of the proposed crossing and applicant owns practically all the land on both sides of the end of this short piece of road, which is seldom used. The evidence indicates that it is probable that the county may vacate this part of the road from the east side of the crossing to the west end of the road, in which event the railroad would not require authority to cross a street at this point but would be at liberty to proceed with construction. At this time, however, this crossing should be authorized which will permit of the immediate construction of the railroad with the expectation that the county will vacate the road.

Malva and Mesquite roads are not being used at the present time, but it was shown that it is probable that they will be used in the

near future and it appears advisable that crossings be constructed at these roads.

Southern Pacific Company expects to operate one freight train daily in each direction over the various crossings at a speed of not to exceed twenty miles per hour. Traffic on the county roads is estimated to be from one to seventy-five vehicles daily over the various crossings.

No special protection other than the standard crossing and advance signs seem to be necessary at the present time at any of the crossings but it is necessary to trim or remove trees and brush for a distance of two hundred feet from many of the proposed crossings to give a clear view of the railroad.

It further appears that it is not reasonable nor practicable to avoid grade crossings with the several public roads which the proposed track of the Southern Pacific will cross and that this application should be granted.

#### ORDER.

Southern Pacific Company, a corporation, having made application to the Commission for permission to construct certain crossings at grade in the county of Imperial, as hereinafter indicated, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

*It is hereby ordered*, that permission be and it is hereby granted Southern Pacific Company to construct a branch line track at grade across thirty-four county roads in the county of Imperial, State of California, described as follows:

##### *Crossing No. 1—Yuma Road.*

Commencing at a point on the north boundary line of the county road, known as Yuma road, running east and west between sections 15 and 22, township 12 south, range 14 east, San Bernardino Base and Meridian; thence in a general southeasterly direction, on an 8° curve to the left and crossing the center line of said road at Engineer Station "L" 10 plus 36.0 to a point on the south boundary line of said road. The center of said crossing being approximately eight hundred twenty feet (820') east of the northwest corner of said section 22.

##### *Crossing No. 2.*

Commencing at a point on the west boundary line of the county road running north and south through the northwest quarter of section 22, township 12 south, range 14 east, San Bernardino Base and Meridian; thence north 89° 59' east, crossing the center line of said road at Engineer Station "H" 13 plus 50.0, to a point on the east boundary line of said road. The said crossing being approximately four thousand feet (4000') west and one hundred feet (100') south of the northeast corner of said section 22.

##### *Crossing No. 3.*

Commencing at a point on the west boundary line of the county road running north and south between sections 22 and 23, township 12 south, range 14 east, San Bernardino Base and Meridian; thence north 89° 59' east, crossing the center line of said road at Engineer Station "H" 53 plus 27.0 to a point on the east boundary line of said road. The said crossing being approximately one hundred feet (100') south of the northeast corner of said section 22.

*Crossing No. 4.*

Commencing at a point on the west boundary line of the county road running north and south through the middle of section 23, township 12 south, range 14 east, San Bernardino Base and Meridian; thence north  $89^{\circ} 59'$  east, crossing the center line of said road at Engineer Station "H" 79 plus 80, to a point on the east boundary line of said road. The said crossing being approximately one hundred feet (100') south of the northeast corner of the northwest quarter of said section 23.

*Crossing No. 5.*

Commencing at a point on the west boundary line of the county road, known as Weist road, running north and south through the middle of section 19, township 12 south, range 15 east, San Bernardino Base and Meridian; thence north  $89^{\circ} 59'$  east, crossing the center line of said road at Engineer Station "H" 186 plus 36.0, to a point on the east boundary line of said road. The said crossing being approximately one hundred feet (100') south of the northeast corner of the northwest quarter of said section 19.

*Crossing No. 6.*

Commencing at a point on the north boundary line of the county road, known as Lateral "B", running east and west through the middle of section 21, township 12 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 313 plus 65.0, to a point on the south boundary line of said road. The said crossing being approximately one hundred feet (100') east of the center of said section 21.

*Crossing No. 7.*

Commencing at a point on the north boundary line of the county road, known as Nettle road, running east and west between sections 28 and 33, township 12 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 392 plus 94.0, to a point on the south boundary line of said road. The said crossing being approximately eighty feet (80') east of the northwest corner of the northeast quarter of said section 33.

*Crossing No. 8.*

Commencing at a point on the north boundary line of the county road, known as Narcissus road, running east and west through the middle of section 33, township 12 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 419 plus 45.0, to a point on the south boundary line of said road. The said crossing being approximately eighty feet (80') east of the center line of said section 33.

*Crossing No. 9.*

Commencing at a point on the north boundary line of the county road, known as Standard road, running east and west, between section 33, township 12 south, range 15 east, San Bernardino Base and Meridian and section 3, township 13 south, range 15 east, San Bernardino Base and Meridian; thence in a general southerly direction, crossing the center line of said road at Engineer Station "H" 446 plus 45.0, to a point on the south boundary line of said road. The said crossing being approximately four hundred and fifty-five feet (455') east of the southwest corner of the southeast quarter of said section 33.

*Crossing No. 10.*

Commencing at a point on the north boundary line of the county road, known as Marigold road, running east and west between lots 6 and 11, section 3, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 05'$  east, crossing the center line of said road at Engineer Station "H" 470 plus 64.0, to a point on the south boundary line of said road. The said crossing is approximately eighty-seven feet (87') east of the northwest corner of said lot 11.

*Crossing No. 11.*

Commencing at a point on the north boundary line of the county road, known as Mayflower road, running east and west between lots 14 and 19, section 3, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 05'$  east, crossing the center line of said road at Engineer Station "H" 497 plus 60.0,

to a point on the south boundary line of said road. The said crossing is approximately eighty-six feet (86') east of the northwest corner of said lot 19.

*Crossing No. 12.*

Commencing at a point on the north boundary line of the county road, known as Malva road, running east and west between lots 22 and 27, section 3, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 05'$  east, crossing the center line of said road at Engineer Station "H" 523 plus 45.0 to a point on the south boundary line of said road. The said crossing is approximately eighty feet (80') east of the northwest corner of said lot 27.

*Crossing No. 13.*

Commencing at a point on the north boundary line of the county road, known as Mulberry road, running east and west through lot 36, section 3, township 13 south, range 15 east, San Bernardino Base and Meridian; thence in a southwesterly direction on a  $3^{\circ}$  curve to the left, crossing the center line of said road at Engineer Station "H" 557 plus 25.0 to a point on the south boundary line of said road. The said crossing is approximately seven hundred feet (700') south and two hundred fifty feet (250') west of the northeast corner of said lot 36.

*Crossing No. 14.*

Commencing at a point on the north boundary line of the county road, known as Munyon road, running east and west between tracts 97 and 88, section 10, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 05'$  east, crossing the center line of said road at Engineer Station "H" 583 plus 78.0 to a point on the south boundary line of said road. The said crossing is approximately fifty feet (50') west of the southeast corner of said tract 97.

*Crossing No. 15.*

Commencing at a point on the north boundary line of the county road, known as Myrtle road, running east and west through tract 88, section 10, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 05'$  east, crossing the center line of said road at Engineer Station "H" 610 plus 14.0, to a point on the south boundary line of said road. The said crossing is approximately nine hundred fifty feet (950') east and six hundred feet (600') north of the southwest corner of said section 10.

*Crossing No. 16.*

Commencing at a point on the north boundary line of the county road, known as Mullen road, running east and west through lot 5, section 15, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $11^{\circ} 26'$  east, crossing the center line of said road at Engineer Station "H" 636 plus 85.0, to a point on the south boundary line of said road. The said crossing is approximately two hundred eighty feet (280') east and six hundred feet (600') north of the southwest corner of said lot 5.

*Crossing No. 17.*

Commencing at a point on the north boundary line of the county road, known as Maple road, running east and west between lot 11 and tract 73, section 15, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $11^{\circ} 26'$  east, crossing the center line of said road at Engineer Station "H" 663 plus 79.0, to a point on the south boundary line of said road. The said crossing is approximately five hundred fifteen feet (515') west of the northeast corner of said tract 73.

*Crossing No. 18.*

Commencing at a point on the north boundary line of the county road, known as Mesquite road, running east and west between lot 7 and tract 70, section 22, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $11^{\circ} 26'$  east, crossing the center line of said road at Engineer Station "H" 690 plus 75.0, to a point on the south boundary line of said road. The said crossing is near the southwest corner of said lot 7.

*Crossing No. 19.*

Commencing at a point on the north boundary line of the county road, known as Magnolia road, running east and west between tracts 70 and 58, section 22, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $11^{\circ} 26'$  east, crossing the center line of said road at Engineer Station "H" 717 plus 60.0, to a point on the south boundary line of said road. The said crossing is approximately seven hundred forty feet (740') west of the northeast corner of said tract 58.

*Crossing No. 20.*

Commencing at a point on the north boundary line of the county road, known as Moss road, running east and west through tract 58, section 27, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $11^{\circ} 26'$  east, crossing the center line of said road at Engineer Station "H" 744 plus 63.0, to a point on the south boundary line of said road. The said crossing is approximately one half mile north and two hundred feet (200') west of the southeast corner of said tract 58.

*Crossing No. 21.*

Commencing at a point on the north boundary line of the county road, known as Oak road, running east and west between tracts 59 and 50, section 27, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 0'$  east, crossing the center line of said road at Engineer Station "H" 771 plus 31.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and six hundred feet (600') north of the southeast corner of said section 27.

*Crossing No. 22.*

Commencing at a point on the north boundary line of the county road, known as Osage road, running east and west between tracts 50 and 44, section 34, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 787 plus 82.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and one thousand feet (1000') south of the northeast corner of said section 34.

*Crossing No. 23.*

Commencing at a point on the north boundary line of the county road, known as Orita road, running east and west between tracts 44 and 161, section 34, township 13 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 814 plus 37.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and sixteen hundred feet (1600') north of the southeast corner of said section 34.

*Crossing No. 24.*

Commencing at a point on the north boundary line of the county road, known as Oleander road, running east and west between tracts 161 and 148, section 3, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 840 plus 68.0 to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and one thousand feet (1000') south of the northeast corner of said section 3.

*Crossing No. 25.*

Commencing at a point on the north boundary line of the county road, known as Ohmar road, running east and west through tract 147, section 3, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south  $0^{\circ} 01'$  east, crossing the center line of said road at Engineer Station "H" 867 plus 20.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and sixteen hundred feet (1600') north of the southeast corner of above mentioned section 3.

*Crossing No. 26.*

Commencing at a point on the north boundary line of county road, known as Orange road, running east and west between tracts 147 and 122, section 10, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 893 plus 40.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and one thousand feet (1000') south of the northeast corner of said section 10.

*Crossing No. 27.*

Commencing at a point on the north boundary line of the county road, known as Oxalis road, running east and west between tracts 122 and 121, section 10, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 919 plus 81.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and sixteen hundred feet (1600') north of the southeast corner of said section 10.

*Crossing No. 28.*

Commencing at a point on the north boundary line of the county road, known as Olive road, running east and west between tracts 121 and 107, section 15, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 946 plus 30.0 to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred twenty feet (1520') west and one thousand feet (1000') south of the northeast corner of said section 15.

*Crossing No. 29.*

Commencing at a point on the north boundary line of the county road, known as Orchid road, running east and west between tracts 107 and 106, section 15, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 972 plus 76.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and sixteen hundred feet (1600') north of the southeast corner of said section 15.

*Crossing No. 30.*

Commencing at a point on the north boundary line of the county road, known as Occident road, running east and west between tracts 106 and 91, section 22, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 999 plus 10.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and one thousand feet (1000') south of the northeast corner of said section 22.

*Crossing No. 31.*

Commencing at a point on the north boundary line of the county road, known as Orient road, running east and west between tracts 91 and 90, section 22, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 1025 plus 52.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and sixteen hundred feet (1600') north of the southeast corner of said section 22.

*Crossing No. 32.*

Commencing at a point on the north boundary line of the county road, known as Oasis road, running east and west between tracts 90 and 74, section 27, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 1051 plus 87.0 to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and one thousand feet (1000') south of the northeast corner of said section 27.

*Crossing No. 33.*

Commencing at a point on the north boundary line of the county road, known as Oat road, running east and west between tracts 71 and 70, section 27, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 1078 plus 29.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and sixteen hundred feet (1600') north of the southeast corner of said section 27.

*Crossing No. 34.*

Commencing at a point on the north boundary line of the county road known as township road, running east and west between tracts 70 and 46, section 34, township 14 south, range 15 east, San Bernardino Base and Meridian; thence south 0° 01' east, crossing the center line of said road at Engineer Station "H" 1104 plus 70.0, to a point on the south boundary line of said road. The said crossing is approximately fifteen hundred feet (1500') west and one thousand feet (1000') south of the northeast corner of said section 34.

All of the above as shown by the maps No. 17860, 17861, 17859 and 17858 attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said roads now graded, with the top of rails flush with the road surface and with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission in writing, of the completion of the installation of said crossings.

(4) The authorization herein granted for the installation of said crossings shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

*It is hereby further ordered,* that permission be and it is hereby granted Southern Pacific Company to construct a passing track thirteen feet west of the above mentioned branch line track across Lateral "B" road (Crossing No. 6) and also a passing track thirteen feet west of the above mentioned branch line track across Moss road (Crossing No. 20) said crossings to be constructed subject to the above mentioned conditions.

This order shall become effective five (5) days after the making thereof.

Dated at San Francisco, California, this seventh day of June, 1923.

DECISION No. 12183.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, NORTHERN DIVISION, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK IN THE SUM OF EIGHTY THOUSAND DOLLARS PAR VALUE.

Application No. 9023.

Decided June 8, 1923.

Warren E. Libby, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

In this application, Pickwick Stages, Northern Division, a corporation, asks permission to issue and sell at par, for cash, \$80,000 of its common capital stock for the purpose of financing, in part, the cost of additional equipment.

Pickwick Stages, Northern Division, was organized during August, 1917, with an authorized capital stock of \$200,000 divided into \$50,000 of preferred and \$150,000 of common. As of December 31, 1922, it reports outstanding \$70,000 of common stock, \$20,000 of 8 per cent serial equipment trust certificates due on or before June 1, 1925, \$25,000 of 7 per cent short term notes and \$50,137.88 of accounts payable. It reports its revenues and expenses for the years ending December 31st as follows:

Revenues	1921	1922
Passenger -----	\$332,557 33	\$574,444 56
Express -----	499 92	3,840 58
Mail -----	425 36	663 04
Other -----	5,365 38	6,114 54
Total -----	\$338,847 99	\$585,062 72
Expenses -----	326,555 31	518,075 71
Net revenue -----	\$12,292 68	\$66,987 01
Deductions:		
Interest -----	4,848 51	6,002 99
Federal taxes -----	202 59	1,831 26
Miscellaneous -----	81 17	959 70
Total -----	\$5,132 27	\$8,793 95
Net profit -----	\$7,160 41	\$58,193 06
Surplus beginning of year -----	8,317 88	15,478 29
Surplus at end of year -----	\$15,478 29	\$73,671 35



It appears that applicant at the close of 1922 operated thirteen 18-passenger cars, nine 11-passenger cars, ten 14-passenger cars and twelve 8-passenger cars. It now reports that its business has increased so rapidly that it must expend, within the next year, approximately \$200,000 for additional automobiles to meet the demand for service. The testimony shows that the company plans to place about fifteen new cars in operation over its route from San Francisco to Los Angeles and about ten new cars upon its other routes. The new equipment to be purchased, in part with proceeds from the sale of stock now applied for, will be of the standard type now used and will consist, so testimony herein shows, of 18-passenger touring cars and 30-passenger cars for local business.

I herewith submit the following form of order:

**ORDER.**

Pickwick Stages, Northern Division, a corporation, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as provided herein;

*It is hereby ordered*, that Pickwick Stages, Northern Division, a corporation, be and it is hereby authorized to issue and sell, for cash, at not less than par, \$80,000 of its common capital stock and to use the proceeds to pay such part of the cost of additional automobiles and equipment as is properly chargeable to plant and equipment accounts under the uniform classification of accounts prescribed by the Railroad Commission for automotive transportation companies.

The authority herein granted is subject to further conditions as follows:

(1) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted will become effective upon the date hereof and will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of June, 1923.

DECISION No. 12184.  
CITY OF BAKERSFIELD

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 1870.

Decided June 8, 1923.

**GRADE CROSSING—SEPARATION OF GRADES—DIVISION OF COST.**—The Atchison, Topeka and Santa Fe Railway Company and the city of Bakersfield are ordered to separate the grade crossing of Union avenue and the main line track of The Atchison, Topeka and Santa Fe Railway Company by the construction of a subway carrying said Union avenue under said track, within one year from effective date of this order. The city and the railroad company are ordered to divide equally the cost of said subway for one track, and the railroad company to bear the additional cost of the subway to carry a second main line track, construction and maintenance of which was authorized in Decision No. 12172.

*E. F. Brittan*, City Attorney, and *M. G. Brittan*, for Complainant.  
*J. W. Walker* and *E. T. Lucey*, for Defendant.

MARTIN, Commissioner.

**OPINION.**

In this proceeding, city of Bakersfield asks for an order of the Commission directing the construction of a subway, separating the grades of Union avenue and the track of The Atchison, Topeka and Santa Fe Railway Company in the city of Bakersfield.

Public hearings were held in Bakersfield, February 27, 1923, before Examiner Eddy; on May 11, 1923, before Commissioner Martin, and in San Francisco on May 28, 1923, before Commissioner Martin.

Union avenue is one of the principal north and south streets in the city of Bakersfield and is the official route of the state highway entering Bakersfield from the south, but due to the fact that there is no paving on Union avenue between Truxton avenue and the southerly city limits to where the state highway is paved, the traffic now moves largely on Brundage lane, an east and west county road, approximately one-half mile south of the southerly city limits, thence to Chester avenue, which is parallel to Union avenue and west thereof, and thence into the business section of the city. Union avenue and the state highway for some eight miles are on the same straight line and it is the intention of the city to pave Union avenue so that the highway traffic will come directly into the city without any turn.

Union avenue is 115 feet wide and in the vicinity of the Santa Fe crossing is not improved. The street surface is largely the natural soil and no sidewalks are constructed. The top of rail of the Santa Fe main line track is approximately seven feet above the adjacent property and the construction of a subway carrying Union avenue beneath the track

appears to be the most feasible method of grade separation. The surrounding property is practically unimproved.

The record shows a movement of 1373 vehicles over the present crossing on Saturday, February 24, 1923, between the hours of 6 a.m. and 10 p.m. Traffic counts on the state highway south of Brundage lane in 1920 on various days in August and September, show a daily vehicular movement on week days between the hours of 6 a.m. and 10 p.m., of something in excess of 1000 vehicles and on two Sundays of 1325 and 1463 vehicles. The number of vehicles using Union avenue after it is paved will greatly increase.

At the first hearing complainant did not submit any plans, but the Commission's engineer upon being questioned as to the cost of the construction of a subway, introduced three sketches (Commission's Exhibit No. 1), used as a basis for estimating the cost of the proposed subway. These sketches were later supplemented by a somewhat more detailed plan (Commission's Exhibit No. 3). This exhibit shows a subway with a twenty-four foot roadway and two five-foot sidewalks, elevated six feet above the roadway. The Santa Fe track is left at the present grade and the street carried beneath a single track through plate girder span with a vertical clearance of fourteen feet, the minimum prescribed by the Commission's General Order No. 26. The proposed grade of the street is 5 per cent on each side and the proposed grade of the sidewalk is 10 per cent. The city proposes a pavement twenty-four feet in width along the middle of Union avenue and because of this the roadway was taken at twenty-four feet. Such a subway in a street 115 feet wide does not require the construction of a concrete trough, so that, outside of the concrete abutments which support the railroad bridge, it is proposed to slope the earth from the existing street grade to the depressed grade, which leaves about thirty-seven feet available on each side of the pavement and earth slopes for roadway and sidewalk. The preliminary estimate of cost of this plan was given as \$25,750, this figure not including the paving in Union avenue nor the construction of concrete sidewalks through the subway and on the approaches. It does include the grading ready for the laying of the pavement and for the sidewalks at the subway.

At the second hearing, the complainant stated that the proposed roadway width of twenty-four feet was satisfactory and it was then left for the defendant to submit plans and estimates for the proposed subway. Defendant's Exhibit No. 1, filed at the last hearing, shows a subway similar to that shown on Commission's Exhibit No. 3, except the plan is for two tracks instead of one. Its estimate of cost (defendant's Exhibit No. 2), is \$42,609.24, this estimate being predicated upon the construction of concrete abutments for two tracks with a steel span

for one track only, and it also does not include paving nor sidewalks. Witness for defendant stated that cost of a subway for one track would be approximately thirty per cent less than the above estimated after deducting therefrom figures covering the cost of the superstructures. On this basis the cost of a one-track subway, according to defendant's estimate, is approximately \$32,000.

At the last hearing, the Commission's engineer stated that he had checked this estimate and had found a total of \$33,390 for the subway, according to the plan and \$29,500 if the abutments were to be provided for one track only.

The defendant does not oppose the construction of a subway, but the city and the railroad have been unable to come to any agreement as to the division of cost. The railroad contemplates the construction of a second main line track across Union avenue at an early date and this matter, as far as the authorization of a grade crossing of Union avenue is concerned, is before the Commission in Application No. 8986. The defendant proposes that the cost of a subway to accommodate two tracks, except the steel span for the second track, be divided equally between the complainant and the defendant, contending that this has been the Commission's practice in previous cases of this kind.

The city, on the other hand, leaves this matter of division of cost to the Commission, but believes that it should not bear any part of the cost of the subway to accommodate the second track, drawing attention to the fact that there is no second track and that the proceeding herein was instituted before defendant's application for a grade crossing of the second track was filed with the Commission.

If Union avenue is paved, as the city states it will be, and Union avenue actually becomes the route of the state highway traffic, the construction of the proposed subway appears justified and after careful consideration of all the evidence introduced, I am convinced that the prayer of the city should be granted and that the Commission should direct the separation of grades at this crossing. As to the division of cost in the specific instances cited by the defendant, the Commission's records show that the division of cost was as agreed upon by the interested parties. In the instant case it appears equitable that the city and the railroad divide equally the cost of a subway for one track and that the railroad bear any additional cost of the subway to carry the second track. Furthermore, this basis of apportionment has been used in practically every proceeding where there was no agreement between the parties and where conditions were comparable to those in this proceeding. It seems desirable before the construction of the subway is actually commenced that the detailed plans therefor be submitted to the Commission for its approval.

The following form of order is recommended and an appropriate order for the second track crossing will be made in Application No. 8996.

**ORDER.**

Public hearings having been held in the above proceeding, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered,* that city of Bakersfield and The Atchison, Topeka and Santa Fe Railway Company be and they are directed to eliminate the grade crossing of Union avenue and the main line track of said railway in said city by constructing a subway carrying said Union avenue under said track, said subway to be constructed within one year from the effective date of this order and substantially in accordance with Commission's Exhibit No. 3, but specifically in accordance with detail plans and specifications which shall hereafter have been approved by this Commission.

*It is hereby further ordered,* that city of Bakersfield and The Atchison, Topeka and Santa Fe Railway Company divide equally the cost of said subway.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

This order shall become effective twenty (20) days after the making thereof.

Dated at San Francisco, California, this eighth day of June, 1923.

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DECISION No. 12200.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT PREFERRED STOCK.

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Application No. 9093.

Decided June 12, 1923.

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Glenn D. Smith, for Applicant.

By THE COMMISSION.

**OPINION.**

Ontario Power Company asks permission to issue and sell at par \$64,000 of its 7 per cent preferred stock and use the proceeds to finance the cost of additions and betterments to its plants and properties.

As of April 1, 1923, applicant reports \$380,000 of common and \$340,000 of 7 per cent preferred stock outstanding. Since then, applicant has issued \$120,000 of common stock, making a total of \$500,000 of common stock issued and outstanding.

As of April 1, 1923, applicant's balance sheet shows the following funded debt outstanding:

Bonds .....	\$262,000 00
Serial notes .....	66,000 00
Trust notes .....	56,000 00
<b>Total</b> .....	<b>\$384,000 00</b>

The testimony of Glenn D. Smith, applicant's general manager, shows that the company from October 1, 1922, to April 30, 1923, expended the sum of \$64,793.60 for extensions, additions and betterments. This amount was expended for the following purposes:

Transformers .....	\$13,521 08
Meters .....	3,370 62
Office equipment .....	1,166 20
Motor vehicles .....	3,833 21
Pole line construction .....	42,902 49
<b>Total</b> .....	<b>\$64,793 60</b>

It is of record that the company has had to expend the \$64,793.60 to meet the demands for service. Of this sum, \$24,000 was obtained through the issue of short term notes. The holders of such notes will accept at par the company's 7 per cent preferred stock in payment of the notes. The remainder of the expenditures were financed temporarily through the investment of moneys represented by reserves and corporate surplus.

#### ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue \$64,000 of its 7 per cent preferred stock, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue of stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted; therefore

*It is hereby ordered*, that Ontario Power Company be and it is hereby authorized to issue and sell for not less than par, \$64,000 par value of its 7 per cent preferred stock and use the proceeds to finance such part of the cost of the extensions, additions and betterments to its plants and properties, described in "Exhibit A" filed in this proceeding, as is properly chargeable to capital account under the Commission's uniform system of accounts.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as

will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will become effective upon the date hereof and will expire on October 1, 1923.

Dated at San Francisco, California, this twelfth day of June, 1923.

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DECISION No. 12201.

IN THE MATTER OF THE APPLICATION OF SUTTER-BUTTE CANAL COMPANY, A CORPORATION, FOR PERMISSION TO SELL THREE THOUSAND SHARES OF THE PREFERRED CAPITAL STOCK OF SAID CORPORATION, AND ALSO EIGHT HUNDRED FIFTY THOUSAND DOLLARS FACE OR PAR VALUE OF TWENTY-YEAR SIX AND ONE-HALF PER CENT GOLD BONDS.

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Application No. 8893.

Decided June 12, 1923.

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BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 12068, dated May 12, 1923, authorized Sutter-Butte Canal Company to issue and sell at not less than 95 per cent of their face value and accrued interest \$850,000 of bonds to pay or refund outstanding bonds and for such other purposes as the Railroad Commission may authorize by a supplemental order or orders. The company reports that it has paid or refunded its bonded debt and that there remains a balance of \$48,011.37, the expenditure of which the Commission has not authorized. Reports filed with the Commission show that applicant has invested in extensions, additions and betterments, earnings considerably in excess of \$48,011.37. The company should be authorized to use the \$48,011.37 to reimburse its treasury on account of earnings invested in extensions, additions and betterments and through such reimbursement, pay indebtedness

*It is hereby ordered*, that the order in Decision No. 12068, dated May 12, 1923, be and it is hereby amended so as to permit Sutter-Butte Canal Company to use \$48,011.37 obtained from the sale of its bonds to reimburse its treasury on account of earnings expended for extensions, additions and betterments and through such reimbursement, pay indebtedness.

*It is hereby further ordered*, that the order in Decision No. 12068, dated May 12, 1923, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twelfth day of June, 1923.

## DECISION No. 12208.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION AT GRADE, OF A SPUR TRACK ACROSS WEST MAIN STREET IN THE VICINITY OF VENTURA JUNCTION, COUNTY OF VENTURA, CALIFORNIA.

Application No. 8923.

Decided June 13, 1923.

GRADE CROSSING—ILLEGALLY INSTALLED—COMMISSION CAN NOT CONDONE.—The responsibility for this and other violations does not rest with a single employee, assuming such responsibility, but with the carrier. Commission will not condone acts of this kind, done with or without the knowledge of the carrier's executive officers. Application denied, crossing ordered removed.

Wm. V. Herrin, for Applicant.

BY THE COMMISSION.

## OPINION.

This is an application filed by Southern Pacific Company for permission to construct a spur track at grade across West Main street in the city of San Buenaventura, commonly known as Ventura.

A public hearing was held on this application before Examiner Williams, in Ventura, May 24, 1923.

The spur track on which the crossing is located is to serve the substation or oil distributing plant of the Shell Company of California, which, near the westerly boundary of the city on Main street, at the point of the proposed crossing, is on the official route of the state highway between San Francisco and Los Angeles, via the coast. In addition, this street is the principal business street of Ventura. The spur track in question diverts from the Ojai branch of the Southern Pacific just north of Main street, the Ojai branch itself having been constructed across this thoroughfare for many years.

Southern Pacific Company, the evidence indicates, filed this application with the Commission on April 16, 1923, as a result of a request made by the Shell Company, on December 27, 1922, for service to its property. The track was actually constructed on April 20, 1923, without permission from the Railroad Commission and in violation of section 43 of the Public Utilities Act.

At the hearing an assistant engineer of the applicant stated that the responsibility for constructing this crossing without proper authority from the Commission was due to an error or oversight on his part and that on March 27, 1923, he issued an order to the roadmaster directing that the track be built.

The evidence indicates that it is entirely feasible to give service to the property occupied by the Shell Company without constructing a track across any street by taking this spur from the Ojai branch at a



point a few hundred feet south of Main street. If service were given in this manner it might be necessary to, at some later time, construct an additional track across Santa Clara street in order to serve property adjacent. Santa Clara street, however, is a relatively unimportant street approximately paralleling Main street and located about six hundred feet southerly thereof and it further appears that Santa Clara street extends only a few hundred feet west of the railroad, terminating at the Ventura River. In fact, one of the reasons why Main street carries such a heavy traffic is that it is the only thoroughfare in this vicinity upon which there is a bridge constructed across the Ventura River, with the result that Main street carries all of the traffic to and from the city from the west.

It appears further that a crossing of this spur over Main street is not only unnecessary but that it creates a more than ordinary hazard. It is estimated that from fifteen to twenty cars per month will be placed on the Shell Company's spur and that there would ordinarily be four movements across Main street for each loaded car placed on the spur and for each empty car taken from the spur or a total of approximately one hundred and twenty additional railroad movements per month across the street due to the existence of this crossing. It is clearly evident that this amount of switching across a highway carrying in excess of two thousand vehicles per day should not be permitted when it could be so easily avoided. The situation, in this instance, is made the more serious because of the fact that the view at this crossing is quite seriously obstructed.

Although a single employee assumed all responsibility for the construction of this grade crossing in violation of the provisions of section 43 of the Public Utilities Act, the record indicates that this employee had a remarkable lack of detailed knowledge, not only as to the physical conditions at the point of crossing, but also as to the administrative negotiations preliminary to its construction. Furthermore, the record in this case shows that this is not the only instance in which the Southern Pacific has been negligent in the matter of fully complying with the provisions of section 43 of the Public Utilities Act or of the Commission's orders in connection with tracks constructed across public highways. In view of all these facts, the conclusion is inescapable that the responsibility for this and other violations does not rest with a single employee, but that it actually rests with Southern Pacific Company and its responsible officers. The Commission at this time reiterates that it can not and will not condone acts of this kind done with or without the knowledge of the carrier's executive officers. This application has not been justified and it will, therefore, be denied and the crossing ordered removed.

Any expenditure already made contingent upon the installation of this crossing can not be considered as a reason for the granting of the application, as has heretofore been announced, in Decision No. 10994.

#### ORDER.

Southern Pacific Company having applied to the Commission to install a spur track at grade across West Main street in the city of San Buenaventura, a public hearing having been held, the Commission having been apprised of the facts, the matter being under submission and ready for decision,

*It is hereby ordered*, that the above entitled application be and it is hereby denied; and,

*It is hereby further ordered*, that applicant forthwith abolish the grade crossing illegally established at the location described in the above entitled application by removing its spur track from said West Main street.

Dated at San Francisco, California, this thirteenth day of June, 1923.

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#### DECISION No. 12210.

IN THE MATTER OF THE APPLICATION OF RIVERBEND GAS AND WATER COMPANY FOR AUTHORITY TO ISSUE AND SELL EIGHTEEN THOUSAND DOLLARS FACE AMOUNT OF BONDS.

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Application No. 9070.

Decided June 14, 1923.

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*Chaffee E. Hall*, for Applicant.

BY THE COMMISSION.

#### OPINION.

In this application, Riverbend Gas and Water Company asks permission to issue and sell, at not less than 96½ per cent of face value and accrued interest, \$18,000 face value of its Series "A" 7 per cent first mortgage bonds for the purpose of reimbursing its treasury because of earnings expended for additions and betterments from November 1, 1921, to December 31, 1922.

A public hearing was held on this application by Examiner Fankhauser at San Francisco.

Riverbend Gas and Water Company is engaged in the business of producing, distributing and selling water in and about the town of Parlier and of generating and producing gas in the city of Dinuba and of distributing and selling gas in, and in the vicinity of said city of Dinuba, and in, and in the vicinity of, the towns of Reedley, Kingsburg and Parlier. The company reports its gross revenues from all sources as \$119,142.85 in 1921 and \$128,005.07 in 1922, and its net revenue,

the amount remaining after paying operating expenses, including taxes and depreciation, as \$18,097.88 in 1921 and \$35,011.59 in 1922. After paying all interest charges and providing for amortization of debt discount and expense and uncollectible bills, it reports net profits for the year 1921 as \$11,358.45 and for the year 1922 as \$20,919.10. Applicant as of December 31, 1922, reports \$173,417 of stock and \$180,000 of bonds outstanding.

In the present petition applicant alleges that subsequent to October 31, 1921, and prior to January 1, 1923, it expended out of moneys derived otherwise than from the sale of stock, bonds, notes or other evidences of indebtedness, the sum of \$83,674.52 for extensions, additions and improvements to its plants and properties, as shown in "Exhibit A," as follows:

**Fixed Capital—Gas:**

Gas plant buildings and general structures-----	\$3,007 80	
Holders -----	21,674 03	
Furnaces, boilers and accessories-----	3,038 63	
Gas generators-----	154 85	
Purification apparatus -----	5,417 16	
Miscellaneous gas plant equipment-----	682 00	
Transmission mains -----	5,253 11	
Boosting apparatus and regulator-----	1,357 42	
Distribution mains -----	8,970 06	
Gas services -----	4,186 73	
Gas meters -----	5,097 02	
Miscellaneous distribution equipment -----	920 69	
General office equipment -----	531 97	
General shop equipment -----	186 94	
General stable and garage equipment-----	3,633 89	
Miscellaneous equipment -----	179 83	
Roads, trestles and bridges-----	702 30	
Engineering and superintendence -----	2,000 00	
Fixed capital in other departments-----	2,500 00	
		\$69,494 43

**Fixed Capital—Water:**

Buildings, structures, etc.-----	\$9,428 52	
Water mains -----	1,982 24	
Services -----	273 67	
Hydrants, fire cisterns, fountains, etc.-----	67 50	
Meters -----	283 36	
		12,035 29

Fixed Capital Installed—November 1, 1921, to December 31, 1921 -----	2,144 80	
Total -----		\$83,674 52

To finance, in part, the cost of these expenditures, applicant now asks permission to issue and sell \$18,000 of bonds. It appears that these bonds will be designated "Series A," will bear interest at 7 per cent per annum, will be dated January 1, 1922, will mature January 1, 1942, and at the option of the company are redeemable upon any interest date at 105 and accrued interest, if redeemed prior to January 1, 1927; at

104 and accrued interest if redeemed subsequent to January 1, 1927, and prior to January 1, 1932; at 103 and accrued interest if redeemed subsequent to January 1, 1932, and prior to January 1, 1937, and at 102 and accrued interest if redeemed after January 1, 1937, and prior to maturity. Testimony shows that arrangements have been made to sell these bonds at 96½ per cent of face value, plus accrued interest.

#### ORDER.

Riverbend Gas and Water Comapny having applied to the Railroad Commission for permission to issue and sell \$18,000 face value of its "Series A" 7 per cent first mortgage bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue of bonds is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Riverbend Gas and Water Company be and it is hereby authorized to issue and sell at not less than 96½ per cent of their face value, plus accrued interest, \$18,000 of its "Series A" first mortgage 7 per cent bonds for the purpose of financing, in part, the cost of the extensions, additions and betterments to which reference is made in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
2. The authority herein granted to issue bonds will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and will expire on November 30, 1923.

Dated at San Francisco, California, this fourteenth day of June, 1923.

## DECISION No. 12211.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT  
AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE  
ISSUE AND SALE OF BONDS.

Application No. 9110.

Decided June 14, 1923.

A. E. Peat, for Applicant.

By THE COMMISSION.

## OPINION.

San Joaquin Light and Power Corporation asks permission to issue and sell, at not less than 94 $\frac{1}{2}$  per cent of their face value and accrued interest, \$2,443,000 par value of its Series "B" unifying and refunding 6 per cent gold bonds and use the proceeds to pay the cost of additions, extensions, improvements and betterments to its properties made and to be made subsequent to April 1, 1923.

A public hearing was held on this application before Examiner Fankhauser.

In "Exhibit B" applicant reports actual or estimated expenditures for additions, extensions, improvements or betterments to its properties made or to be made subsequent to April 1, 1923, at \$2,951,114.68. This amount is made up of the following items:

Expenditures to April 30, 1923.....	\$358,311 74
Balance to complete approved estimates at April 30, 1923.....	1,434,179 94
Estimated required expenditures during the remainder of 1923 for distribution lines, transformers, services and meters for new business .....	977,393 00
General warehouse unit at California avenue.....	30,000 00
100,000 cubic feet gas holder in Merced.....	29,375 00
100,000 cubic feet gas holder in Selma.....	27,496 00
Trackage, pole treating plant at new industrial site, Fresno.....	63,952 00
Additions to office building, Bakersfield.....	19,207 00
Telephone equipment for new office building, Fresno.....	11,200 00
Total .....	\$2,951,114 68

The approved estimates at April 30, 1923, include an estimate of \$684,034.15 to complete applicant's new office building at Fresno.

Applicant asks permission to use the proceeds obtained from the sale of its bonds to pay, in part, the cost of the additions, extensions, improvements and betterments to its properties, to which reference has been made.

Applicant reports outstanding \$24,594,100 of stock, consisting of \$7,094,100 of prior preferred, \$6,500,000 of preferred and \$11,000,000 of common. Its funded debt outstanding in the hands of the public is reported at \$29,591,000 and consists of \$8,200,000 of 7 per cent bonds, \$18,222,000 of 6 per cent bonds and \$3,169,000 of 5 per cent bonds.

**ORDER.**

San Joaquin Light and Power Company having applied to the Railroad Commission for permission to issue and sell \$2,443,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that San Joaquin Light and Power Corporation be, and it is hereby authorized to issue and sell, at not less than 93 $\frac{3}{4}$  per cent of their face value and accrued interest, \$2,443,000 of its Series "B" unifying and refunding 6 per cent bonds.

The authority herein granted is subject to further conditions as follows:

(1) The proceeds obtained from the sale of the bonds may be used by applicant to pay such part of the cost of the additions, extensions, improvements and betterments to its properties described in "Exhibit B" filed in this proceeding as are properly chargeable to capital account under the system of accounts prescribed or adopted by the Railroad Commission.

(2) Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,721.50, and will expire on December 1, 1923.

Dated at San Francisco, California, this fourteenth day of June, 1923.

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**DECISION No. 12213.**

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A SECOND MAIN TRACK, TOGETHER WITH NECESSARY APPURTENANCES, ALONG, UPON AND ACROSS CERTAIN STREETS, PORTIONS OF STREETS, AND OTHER PLACES IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA.

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Application No. 8996.

Decided June 14, 1923.

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

The Commission having on June 5, 1923, made its order, Decision No. 12172, authorizing The Atchison, Topeka and Santa Fe Railway

Company to construct its second track across Union avenue in the manner and subject to the conditions that should thereafter be directed, and the Commission having on June 8, 1923, rendered its Decision No. 12184 in Case No. 1870, directing the construction of a subway to carry Union avenue beneath the existing main track in the city of Bakersfield and it appearing that the track herein authorized to be constructed at Union avenue should be constructed across said street in the same manner as the crossing of said existing track, and it further appearing that the crossing of the track herein authorized to be constructed should be made at grade until said subway is constructed;

*It is hereby ordered*, that permission be and it is hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct its second main track at grade across Union avenue as shown by the map (Division Engineer's Drawing V-24-37), attached to the application, said crossing at grade to be constructed subject to the following conditions, and not otherwise:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be constructed of a width and type of construction to that portion of said Union avenue now graded and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall abolish said grade crossing of its second main track across Union avenue herein authorized when the adjacent grade crossing of its existing first main line track is eliminated by the construction of a subway to carry Union avenue beneath said first main line track as directed by the Commission in Decision No. 12184 in Case No. 1870.

*It is hereby further ordered*, that when the existing grade crossing of said first main track of applicant is eliminated by the construction of the subway carrying Union avenue beneath said track, applicant shall abolish and eliminate the grade crossing hereinabove authorized, by constructing said subway so that Union avenue shall be carried beneath both of said tracks in accordance with detailed plans and specifications which shall hereafter be approved by the Commission.

*It is hereby further ordered*, that the excess cost of constructing said subway to accommodate said second main line track above the cost of constructing said subway to accommodate said first main line track only shall be borne by applicant, both as to cost of construction and cost of maintenance.

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this fourteenth day of June, 1923.

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DECISION No. 12215.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

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Application No. 9111.

Decided June 15, 1923.

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A. E. Peat, for Applicant.

By THE COMMISSION.

OPINION.

Southern California Gas Company in this application asks permission to issue and pledge with the trustee under its first and refunding mortgage \$546,000 face value of its first mortgage bonds, and to issue and sell \$2,500,000 face value of its first and refunding mortgage Series "C" bonds.

A public hearing was held before Examiner Fankhauser at San Francisco.

The record shows that on November 1, 1910, applicant executed a first mortgage to secure the payment of \$10,000,000 of bonds and that on March 1, 1921, it executed its first and refunding mortgage to secure the payment of a total authorized issue of \$25,000,000 of bonds. The new mortgage, among other things, provides that the uncertified first mortgage bonds shall from time to time be certified by the trustee under the first mortgage and deposited with the trustee under the first and refunding mortgage as collateral security for the first and refunding mortgage bonds. It appears from the application that of the \$10,000,000 of first mortgage bonds, \$4,566,000 have been issued and sold, \$4,865,000 are pledged as collateral, \$23,000 are reserved to retire underlying liens and \$546,000 remain issuable at this date. Of the \$25,000,000 of first and refunding mortgage bonds, the company, pursuant to authority received from the Railroad Commission, has issued and sold \$4,865,000, consisting of \$2,865,000 of Series "A" 7 per cent bonds, due March 1, 1951, and \$2,000,000 of Series "B" 5½ per cent bonds due September 1, 1952. The Series "C" bonds proposed to be issued will bear interest at 6 per cent per annum and will mature on



June 1, 1958. The company reports that it has arranged for their sale at 94.75 per cent of face value, plus accrued interest.

Applicant asks permission to issue and sell the Series "C" bonds for the purpose of financing the cost of constructing extensions, additions and betterments to its plants and properties. It appears from the application that prior to April 30, 1923, the company expended for capital purposes the sum of \$1,131,275.43, for which it has not been reimbursed by the issuance of bonds. A detailed statement of these expenditures is on file with the Commission. It estimates that it will have to expend during 1923, \$3,953,853 for extensions, additions and betterments. These expenditures are shown in applicant's Exhibit "B" as follows:

Ten million cubic feet holder—complete	\$700,000 00
Yard piping for holder	30,000 00
Quarter million per hour gas compressor	35,000 00
Land	120,000 00
Office building at Burbank	10,000 00
Office building—Van Nuys	10,000 00
Office building—Redondo	18,893 00
Office building—Downey	29,260 00
Drilling water well—Los Angeles plant	6,820 00
Condenser—Los Angeles plant	17,880 00
Four-story storeroom building	450,000 00
16-inch and 12-inch line to reinforce Wilshire District and West	220,400 00
12-inch line Plant No. 1 and Plant No. 3	143,600 00
Miscellaneous pressure reinforcement	262,000 00
Mains, meters, services, etc.	1,900,000 00
<b>Total</b>	<b>\$3,953,853 00</b>

Under its first and refunding mortgage, the company is entitled to issue bonds up to 75 per cent of the cost of new construction, provided that the net earnings of the company for twelve months out of the preceding fourteen months shall have been at least one and three-fourths times the interest on all bonds then outstanding and on the bonds which the trustee is asked to authenticate. Seventy-five per cent of the reported uncapitalized construction expenditures made prior to April 30, 1923, amounts to \$848,456.58. Applicant asks permission to use the proceeds from the sale of \$848,456.58 of bonds to finance a part of the cost of the extensions, additions and betterments referred to herein. It proposes to place the proceeds from the remainder of the \$2,500,000 of bonds herein applied for in a special account to be withdrawn from time to time upon supplemental orders from the Railroad Commission.

#### ORDER.

Southern California Gas Company having applied to the Railroad Commission for permission to issue, sell and pledge bonds, a public hearing having been held and the Railroad Commission being of the

opinion that the money, property or labor to be procured or paid for by such issue, sale and pledge of bonds is reasonably required by applicant for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Southern California Gas Company be and it is hereby authorized to issue and deposit with the trustee under its first and refunding mortgage \$546,000 face value of its first mortgage bonds and to issue and sell at not less than 94.75 per cent of their face value plus accrued interest, \$2,500,000 of its first and refunding mortgage Series "C" 6 per cent bonds due June 1, 1958.

The authority herein granted is subject to the following conditions:

1. The proceeds from the sale of \$848,456.58 face amount of the first and refunding mortgage bonds may be used by applicant to finance in part the cost of constructing extensions, additions and betterments to its plants and properties prior to April 30, 1923. The proceeds from the sale of \$1,651,543.42 of said first and refunding mortgage bonds shall be deposited with the trustee and expended only for such purposes as the Railroad Commission may hereafter authorize.

2. Applicant shall keep such record of the issue, sale and pledge of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,750 and will expire on December 31, 1923.

Dated at San Francisco, California, this fifteenth day of June, 1923.

## DECISION No. 12216.

PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED,  
A CORPORATION,

*vs.*

SOUTHERN PACIFIC COMPANY, A CORPORATION,

IN THE MATTER OF PETITION OF PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED, FOR AN ORDER INSTITUTING AN INVESTIGATION ON THE COMMISSION'S OWN MOTION AND SUSPENDING RATES.

Case No. 1644.

PACIFIC PORTLAND CEMENT COMPANY, CONSOLIDATED,

*vs.*

CENTRAL CALIFORNIA TRACTION COMPANY, SOUTHERN PACIFIC COMPANY, SACRAMENTO NORTHERN RAILROAD COMPANY.

Case No. 1648.

IN THE MATTER OF THE INVESTIGATION OF CEMENT RATES OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, BAY POINT AND CLAYTON RAILROAD COMPANY, CALIFORNIA CENTRAL RAILROAD COMPANY, CEMENT, TOLENAS AND TIDE-WATER RAILROAD COMPANY, SACRAMENTO NORTHERN RAILROAD, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY.

Case No. 1774.

Decided June 19, 1923.

**RATES, RAILROAD—DIFFERENTIAL APPLYING TO CEMENT.**—Proposed establishment of a differential of \$1 in the rates applying to cement car loads from Davenport and San Juan, as compared with the rates applying from Cement and Bay Point, found not justified. Differential of \$1.20 recommended at Sacramento with a fading out to a differential of \$1 at the California-Oregon, also at California-Nevada state line.

Rates on cement from Cement and Bay Points applying to points in northern California not shown to be unreasonable per se.

*Jas. A. Keller and Sanborn, Rochl and Delancey C. Smith*, for Complainant.

*J. F. Saunders, H. W. Klein and Elmer Westlake*, for Southern Pacific Company, Defendant.

*R. M. Light and C. F. Bovee*, for California Central Railroad Company.

*R. B. Mitchell*, for Henry Cowell Lime and Cement Company.

*Chas. R. Detrick and Heller, Ehrman, White and McAuliffe, and J. C. Stone*, for Sacramento Northern Railroad Company.

*R. M. Light and C. F. Bovee*, for Old Mission Portland Cement Company, Intervener.

*Gwyn H. Baker*, for Santa Cruz Portland Cement Company.

*James S. Moore, Jr. and Theodore Hart*, for Western Pacific Railroad Company.

*L. H. Rodebaugh*, for San Francisco-Sacramento Railroad Company.

BY THE COMMISSION.

**OPINION.**

It will serve no useful purpose here to detail the historical facts out of which this proceeding grows. It will suffice for the present to state that the Southern Pacific Company has proposed a new schedule of reduced rates on cement to Sacramento and points north and east

thereof from the plants at Davenport and San Juan, hereinafter referred to as the southern mills, the admitted purpose of which is to enable those plants to market their product in the territory involved in more active competition with the mills more advantageously located at Cement and Cowell, hereinafter referred to as the northern mills. The proposed rates, some of which are local rates and others joint through rates published in connection with the industrial roads serving three of the cement plants and the Southern Pacific, Western Pacific, Atchison, Topeka and Santa Fe, Sacramento Northern and San Francisco-Sacramento, are not only under suspension, but are involved in the investigation instituted by us on June 7, 1922. The consolidated proceedings involve a determination of the reasonableness of the rates on cement from the northern and southern mills to the destination territory here under consideration, as well as an allegation by the northern mills that the proposed rates from the southern mills unduly prefer the latter and fail to give to the former the advantage of their location. Rates are stated herein in amounts per ton of 2000 pounds. The words "present rates" refer to rates in effect prior to July 1, 1922; the words "proposed rates" refer to those now under suspension.

The proposal of the Southern Pacific to reduce the rates from the southern mills, while leaving unchanged the rates from the northern mills, thus narrowing the spread in rates as between the two groups, is strenuously opposed by the Pacific Portland Cement Company, hereinafter called the Pacific Company, which operates a plant at Cement.

The Henry Cowell Lime and Cement Company, hereinafter referred to as the Cowell Company, operates a plant at Cowell, also in the northern group, and although represented at the hearing, took no part in the proceeding. Appearances were entered by the southern mills, as interveners, in support of the rate adjustment proposed by the Southern Pacific, hereinafter sometimes referred to as the defendant. A brief statement of the location of the several plants and the rate adjustment in effect thereto will be helpful.

The Pacific Company in 1902 opened a plant at Cement, about 2 miles from Tolenas, on the main line of the Southern Pacific, 54 miles east of San Francisco and 5 miles from Suisun. Cement is served by the Cement, Tolenas and Tidewater, an industrial line owned by the cement company. In 1903 the interests which now operate the Santa Cruz plant at Davenport built a plant at Napa Junction, 11 miles from Suisun. This plant, however, has not been operated for about three years and since its future operation is a matter of doubt it will be referred to only incidentally in this report. The Davenport plant, built in 1907, is on the Southern Pacific about 11 miles west

of Santa Cruz. In 1909 the Cowell Company built a plant at Cowell on the Bay Point & Clayton, which it owns, and which connects with the rails of the Southern Pacific at Bay Point. The plant of the Old Mission Company, built in 1917, is located on the rails of its industrial line, the California Central, which connects with the rails of the Southern Pacific at Chittenden, between Gilroy and Watsonville Junction. Generally speaking, the northern mills are grouped for rate making purposes, as are also the southern mills. In the following table are shown the mileages, short line and operating, from the five mills to Sacramento, which for the purpose of this report will be regarded as the key points, together with the rates, present and proposed:

	Mileage to Sacramento		Rates	
	short line	operating	present	proposed
Bay Point -----	67.8 (a)	109.4 (c)	\$1 80	\$1 80
Tolenas -----	36.9	36.9	1 80	1 80
Napa Junction -----	53.1	53.1	1 80	1 80
Average -----	52.6	66.4		
Davenport -----	171.8 (b)	206.8 (d)	3 30	2 80
Chittenden -----	165.9	166.9 (e)	3 30	2 80
Average -----	168.8	186.8		
Difference -----	116.2	120.4		

(a) Via Benicia (d) Via Watsonville Junction-Oakland-Benicia

(b) Via Glenwood (e) Via Oakland-Benicia

(c) Stockton

The above figures were taken from exhibits filed by the Southern Pacific Company. Using those figures it will be observed that for an average difference in distance as between the two groups of about 118 miles the present rate from the southern group to Sacramento is \$1.50 per ton higher than the rate from the northern group. Under the proposed adjustment this spread in rates as between the two groups, which for purposes of brevity will be hereinafter referred to as a differential, will be decreased to \$1.00 per ton. The rates and differentials, present and proposed, to four representative points north of Sacramento, are shown in the following table:

	—Present—			—Proposed—		
	Rates in cents per 100 pounds		Differ- ential	Rates in cents per 100 pounds		Differ- ential
Chico -----	.25	.17½	.07½	.21	.17½	.03½
Red Bluff -----	.26	.19	.07	.22	.19	.03
Redding -----	.30½	.22½	.08	.25	.22½	.02½
Delta -----	.32½	.27½	.05	.27½	.27½	---

An examination of the above table shows that as the distance increases the differential narrows and finally fades out entirely at Delta, in northern California, 356 miles from San Juan, and 221 miles from Cement. The same situation is true as to points east of Sacramento.

At the California-Nevada state line, 311 miles from San Juan and 179 miles from Cement, the present rates are \$6.80 and \$5 respectively, and the proposed rate from San Juan \$5.50 per ton. At Imlay,

Nevada, a point 356 miles from Cement the proposed rate from San Juan is the same as the present rate from Cement. The proposed basis is explained as follows:

Under the rate adjustment in effect prior to federal control the rates from the several northern mills were found to run together on the Coast Division, in Nevada, and in the San Joaquin Valley at points about 356 miles from Cement, which basis in the proposed adjustment is extended north and east of Sacramento. At intermediate points the differential is faded out on the basis of mileage, except at Marysville, where the \$1 differential is continued, for the reason that the rate from Tolenas to that point is regarded by the defendant as already so low that the differential should not be lessened. (Tr. 22.) The Pacific Company is opposed to any decreases in the spread of rates as between its plant and the southern mills and urges that the rates now in effect from Cement to the destination territory in question are too high and should be reduced. Since cement prices are generally based upon the mill price, plus freight from the nearest mill, the location of the Pacific Company gives it an advantage in the Sacramento Valley of which it is unwilling to be deprived through the fixation of a rate adjustment from its competitors' mills which does not properly reflect the difference in transportation conditions as between the two groups of mills. The Sacramento Valley territory is an important consuming section. The manager of the Santa Cruz Company testified (Tr. 78) that in the order of their importance the primary markets for the distribution of cement in northern California are: San Francisco and the Bay territory; Sacramento Valley, north and east, and the San Joaquin Valley. The northern and southern cement mills are on a rate parity in the San Francisco territory, which is blanketed from San Jose to Richmond. The rates now in effect to the San Joaquin Valley territory, while not directly involved in that proceeding, were recommended by us in connection with our decision in Case No. 232, decided on October 25, 1912. We there said (1, C. R. C. 809-815):

Recommendations of the Commission \* \* \*:

4. Many informal complaints have been made to the Commission concerning excessive cement rates between the mills of northern and southern California and San Joaquin Valley points. We have made a careful study of this situation and suggest to the carriers that the following rates from various cement plants to points in the San Joaquin Valley be published.

The adjustment there suggested or recommended provides a basis of rates from Davenport 20 cents per ton higher than from Cement, Cowell and Napa Junction, the haul from Davenport being approximately 40 miles greater than the average distance from the three other mills. This basis was established by the carriers in conformity with our recommendations and is in effect today except as modified by

General Order No. 28 of the Director General of Railroads, by our action of August 26, 1920, and the general reductions made effective in the summer of 1922, but because of the manner of changing the rates and the disposition of fractions the differentials in the San Joaquin Valley remain practically the same, being 20 cents per ton at most points. The rates from both the northern and southern mills to points on the Coast Line of the Southern Pacific are, generally speaking, but with some exceptions, on a mileage basis, thus giving the southern mills a rate advantage in that territory, the same as is now enjoyed by the Pacific Company at points in the Sacramento Valley. The consumption of cement in this territory, however, is inconsequential as compared with the consumption in the three other territories referred to. It will be seen, therefore, that both groups of mills are on a rate parity in the San Francisco territory; that the northern mills have the advantage over the southern mills in the two next most important consuming territories and that the southern mills have the advantage only in the territory of lowest consumption, along the coast division of the Southern Pacific. At certain times of the year the four companies are apparently able to market their entire output without difficulty; at other times, the competition is very keen and the testimony indicates that a rate handicap of \$1.50, while probably not sufficient to entirely eliminate the southern mills from the Sacramento Valley markets, has a tendency to put the control of that territory in the hands of the northern mills. The disadvantage of the southern mills in this territory is one of location, a fact recognized by them as warranting somewhat lower rates from the northern mills. As was stated by counsel for the Old Mission Company: "It is conceded that the group of nearby mills is entitled to some advantage of rates over the group of more distant mills into the territory in question." On argument he stated:

It is not for the moment disputed that if the rates are to be measured solely by mileage, or solely by cost, or solely by a combination of cost and mileage, the rates from the San Juan and Davenport mills proposed into the Sacramento Valley are too low as compared with the rates from Cement and Cowell and Napa Junction plants into the same territory.

On behalf of the Southern Pacific Company, counsel stated on argument:

There is really no justification for the proposed rates except the question of market competition, and also in comparison with the rates into the San Joaquin Valley, and it is up to this Commission to say whether or not San Juan and Davenport are to get into the Sacramento Valley.

It is not contended that the proposed rates from Davenport and San Juan are reasonable. Indeed, the principal witness for the Southern Pacific Company admitted that the rates from Cement being reasonable, the lower rates from San Juan for substantially the same distances

are less than reasonable. In short, aside from the fact that the differential proposed to the Sacramento Valley is on a higher basis than that recommended by the Commission for application as between the northern and southern mills in Case No. 232, *supra*, the adjustment proposed is based on market competition. The Southern Pacific is here propounding a basis of rates from the southern mills which in the judgment of its traffic officials will enable the southern mills to compete in the Sacramento Valley, not on a rate parity with the northern mills, but which will enable them in a measure to overcome their disadvantage of location and compete more actively with the northern mills than they are able to do under the differentials now in effect. The plan is not without advantage to the Southern Pacific, whose earnings are greater on the traffic handled into the Sacramento Valley from the southern mills because of the longer haul.

The real complaint of the Pacific Company is that their rates are too high as compared with the proposed rates from the southern mills and that no reduction should be made in the latter without at least a corresponding reduction in the rates from the northern mills.

Getting down to the fundamentals of the case, the question which all parties to the record wish us here to determine is how much more shall the southern mills pay than the northern mills to any given destination in the Sacramento Valley or points north and east thereof? Taking Sacramento as the key point, the present differential is \$1.50 and the proposed differential \$1. The southern mills stand solidly behind the Southern Pacific in its proposal to reduce the existing differentials, but the Pacific Company takes the position that the differential of \$1.50 at Sacramento is fair today. The more the southern mills are obliged to absorb in the Sacramento Valley, the greater the advantage in that territory of the northern mills, and that is their real interest in this proceeding. Although the northern mills have the advantage of the southern mills in the San Joaquin Valley, this territory is said to be, especially at certain seasons of the year, the dumping ground for the mills in the southern part of the state; that is, south of Tehachapi. It is but natural, therefore, that the northern mills should strive to retain any advantage they may have in the Sacramento Valley territory, which they have come to look upon as their own, due to their more favorable location. The position of the Southern Pacific is that its rates from the northern mills are not more than reasonable and that the proposed rates from the southern mills are less than reasonable, but are necessary to enable the southern mills to compete. The southern mills and the northern mills are apparently agreed that the proposed differential basis can not be



defended from a transportation standpoint, and the controversy comes to us for settlement.

It is well recognized that a carrier may, in its own interest, publish rates lower than could be required of it by any regulatory body, but in so doing it is charged with the duty of seeing that the rates are not unduly discriminatory and cast no undue burden upon other commerce. In other words, assuming that the existing rates from the northern mills are reasonable, and they have not been shown to be otherwise, the proposed rates do not entirely reflect the difference in operating and other transportation conditions between the two groups of mills.

The proposed basis is subject to criticism from another point of view. At Delta, 356 miles from San Juan, the proposed rates from the southern mills are the same as the present rates from the northern mills; that is, the differential is entirely wiped out at that station and points north to the California-Oregon line. At the first station in Oregon, however, a differential of \$1 in favor of the northern mills is in effect as the result of orders of the Interstate Commerce Commission. Certainly, from no standpoint of rate making can this incongruous situation be defended. It is apparently admitted by all parties that with the increase in distance the differential should be narrowed, but there is a wide difference of opinion as to just how the decrease in spread should be accomplished.

The record is voluminous and is supported by many exhibits, all of which have been studied with care, but it is unnecessary here to go into the details concerning them. However, as a result of the peculiar conflict of interest, the record is not helpful for there is relatively little real consideration given to the reasonableness per se of the cement rates or to their effect upon the different consuming centers which would best aid us in determining whether the entire rate structure needs readjustment and what that readjustment should be.

Consuming communities can not prosper and grow, neither can different producing and manufacturing points, unless rates are so adjusted as to permit the carriers to properly serve all the various interests.

There is now an equality of rates from all four Northern California cement mills into the San Francisco Bay region voluntarily established by the carriers which appears to have proven satisfactory, and there is nothing in this record to indicate that the consuming territory in the Sacramento Valley, and north and east thereof, should not be accorded similar rates voluntarily made by the carriers, to permit the movement of cement from all producing mills.

After a careful examination of all the facts of record we have reached the conclusion and so find, that a difference in the rates between the northern and southern mills at Sacramento of \$1.20 would more nearly reflect the difference in the transportation costs as between the two groups than the proposed differential of \$1 would preserve to the northern mills the advantage of their location and, at the same time, would give to the cement users in the Sacramento Valley the benefits of such competition as may exist in the cement trade where a difference in rate prevails as between two producing territories.

We will not enter an order at this time fixing the differential at all points, but the defendant carriers will be expected, within sixty (60) days, to submit for our approval a proposed adjustment of future rates from the four northern California mills into the Sacramento Valley and points north and east thereof which will establish at Sacramento a spread between the two groups, northern and southern, of producing mills of \$1.20 per ton, the same to be narrowed with the increase in distance so as to gradually blend and harmonize with the interstate adjustment in effect at Oregon and Nevada points.

Dated at San Francisco, California, this nineteenth day of June, 1923.

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DECISION No. 12226.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, A CORPORATION, ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND HAVING ITS PRINCIPAL PLACE OF BUSINESS AT LOS ANGELES, CALIFORNIA; LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, INCORPORATED, A CORPORATION, ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND HAVING ITS PRINCIPAL PLACE OF BUSINESS AT SANTA PAULA, CALIFORNIA, AND W. W. MCKEE, FOR AN ORDER AUTHORIZING SAID LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, INCORPORATED, TO PURCHASE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, No. 6878, AND ACQUIRED BY LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY BY DECISION No. 7133, AND FOR PERMISSION TO ISSUE STOCK OF LOS ANGELES AND SANTA BARBARA MOTOR EXPRESS COMPANY, INCORPORATED.

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Application No. 9036.

Decided June 19, 1923.

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*Durley and Downes*, by *W. Mark Durley*, for Applicants.

*BRUNDIGE*, Commissioner.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing:

1. Los Angeles and Santa Barbara Motor Express Company, a corporation, hereinafter sometimes referred to as the "old company,"

to transfer its operative rights and properties to Los Angeles and Santa Barbara Motor Express Company, Incorporated, a newly organized corporation;

2. Los Angeles and Santa Barbara Motor Express Company, Incorporated, hereinafter sometimes mentioned as the "new company," to issue and deliver \$125,000 of its stock to Los Angeles and Santa Barbara Motor Express Company in payment for such operative rights and properties; and

3. Los Angeles and Santa Barbara Motor Express Company, the old company, to sell the \$125,000 of stock it will receive in payment for its operative rights and properties to W. W. McKee for \$125,000, represented by a note payable in five years with interest at 6 per cent per annum.

Los Angeles and Santa Barbara Motor Express Company was organized on or about January 2, 1920, with an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, of which stock of the par value of \$14,000 is reported outstanding. The company is the owner of an operative right for the conduct of an automobile freight and express service between Los Angeles and Santa Barbara, having acquired such operative right from C. T. Mayo, E. D. Stuart, J. S. Hunter and W. P. Wilson, pursuant to authority granted by the Commission in Decision No. 7133, dated February 13, 1920.

Its assets and liabilities as of April 30, 1923, are reported as follows:

*Assets:*

Plant and equipment—

Equipment .....	\$82,357 37
Organization expense .....	300 59
Furniture and fixtures .....	369 00
Garage equipment .....	1,636 28

Total plant and equipment..... \$84,663 24

Current assets—

Cash on hand.....	\$242 50
Cash in bank.....	4,816 62
Accounts receivable .....	4,801 50
Materials and supplies.....	2,383 25

Total current assets ..... 12,243 87

Prepayments—

Insurance .....	\$1,275 19
Licenses .....	200 00
Rents .....	300 00

Total prepayments ..... 1,775 19

Deficit ..... 32,593 81

Total assets ..... \$131,276 11

**Liabilities:**

Capital stock -----		\$14,000 00
Current liabilities—		
Accounts payable -----	\$6,409 42	
Due Dunn Manufacturing Company -----	89,780 99	
Pay roll -----	2,186 95	
Total current liabilities -----		98,377 36
Reserve for depreciation -----		18,898 75
Total liabilities -----		\$131,276 11

It appears that approximately all of the current liabilities, aside from the amount due Dunn Manufacturing Company, have been paid since the date of the balance sheet.

It is reported that there were losses incurred from the beginning of the business up to the month of July, 1922, but that since that time the operations have been conducted at a profit. The revenues and expenses for the year ended December 31, 1922, and for the four months ended April 30, 1923, are reported as follows:

Revenues:	Year ended December 31, 1922	Four months ended April 30, 1923
Freight revenues -----	\$106,699 97	\$47,803 52
Trade discount -----	289 54	187 97
Storage -----	18 99	241 27
Other -----		235 23
Total revenues -----	\$107,008 50	\$48,467 99
Operating expenses:		
Transportation -----	\$64,423 27	\$25,459 58
Traffic -----	3,455 67	1,194 04
Maintenance -----	23,517 33	11,539 89
General -----	9,685 55	3,893 19
Total operating expenses -----	\$101,081 82	\$42,086 70
Net income -----	\$5,926 68	\$6,301 29
Nonoperating expenses -----	634 28	11 42
Net profit for period -----	\$5,292 40	\$6,369 87

It appears that all of the selling company's outstanding stock, excepting directors' shares, is held by the Dunn Manufacturing Company, which company, from time to time, has advanced \$61,707.67 to cover operative losses and \$28,008.32 to pay for additional equipment. Dunn Manufacturing Company is engaged in the manufacture of oil well tools and other articles. It reports that it desires to sever its connection with the auto stage business, so that its officers and employees may devote their entire time and attention to its other business. Therefore, it has been decided to transfer the business and properties of Los Angeles and Santa Barbara Motor Express Company to a new corporation, to be known as Los Angeles and Santa Barbara Motor

Express Company, Incorporated, which asks permission to issue in payment such an amount of capital stock as will equal not only the estimated value of the automobiles and other properties, but will also cover the amounts advanced by Dunn Manufacturing Company to meet operative losses.

The articles of incorporation of the new company show that it was organized on or about April 21, 1923, with an authorized capital stock of \$250,000, divided into 25,000 shares of the par value of \$10 each, all shares being common. The company has entered into an agreement, dated May 8, 1923, with the old company and with W. W. McKee, by the terms of which it agrees to issue \$125,000 of its stock to the old company in payment for all of that company's rights, business and properties. The old company thereupon will sell such stock to W. W. McKee for \$125,000 and has agreed to accept in payment therefor a nonnegotiable 6 per cent five-year promissory note secured by pledge of the stock. In this manner the Dunn Manufacturing Company hopes to recover its losses.

The application shows that the amount of stock to be issued, namely \$125,000, was determined by using the following estimated values for the properties:

Automobiles -----	\$53,942 66
Furniture and fixtures (actual cost) -----	975 00
Shop equipment (actual cost) -----	1,633.55
Leaseholds -----	7,875 00
Franchise, or development cost -----	61,707 67
Total -----	\$126,133 88

The automobile equipment consists of fourteen trucks, twelve trailers, one extra van body and one White motor for auxiliary purposes, all as shown in applicant's "Exhibit No. 1" filed at the hearing. It appears that this equipment, which was purchased during 1920, 1921, and 1922, originally cost the company \$67,428.32. The purchase price of \$53,942.64, shown above, is an amount equivalent to 80 per cent of the reported cost, it being estimated by applicants that the equipment has depreciated to the extent of 20 per cent of the cost since the date of purchase. In support of this claim, applicants allege that the performance of extensive maintenance work and the practice of continually overhauling the motors and replacing worn parts with new, has resulted in maintaining the equipment in a condition practically as good as new. According to the testimony of T. F. Bulpin, superintendent of the old company and in charge of the repair shop, the maintenance charges, which are reported high, amount to \$100 per month for each car.

Along with the physical properties there will be transferred to the purchasing company five leases of terminal sites. These leases, which

are alleged to possess a value of \$7,875 and which are to be transferred at that price, are described as follows:

Los Angeles depot, 10 years from January 1, 1922, monthly rental----	\$265 00
Santa Paula depot, 5 years from August 1, 1921, monthly rental-----	75 00
Santa Barbara depot, 10 years from August 1, 1922, monthly rental--	90 00
Fillmore depot, 5 years from August 1, 1922, monthly rental-----	40 00
Ventura depot, 5 years from April 1, 1923, monthly rental-----	50 00

Mr. W. W. McKee, president of the new company and manager of the old, testified that actual inquiry by him disclosed the fact that should the leases be terminated the Los Angeles and Santa Barbara properties could be re-leased for a monthly rental of \$35 in excess of the present rental and the Santa Paula depot for \$25 a month more. No increase is estimated for the other two depots. Multiplying the amount of increases in rent by the unexpired terms of the leases, in months, results in a total of \$7,875, the estimated leasehold values. This amount is not actually being realized by the old company, nor does the record show that it will be realized by the new company. Lease contracts such as are before us in this proceeding should not, in my opinion, be used as a basis for capitalization.

Coming now to the value claimed for franchise or development cost, it appears that this figure, namely \$61,707.67, represents amounts advanced by Dunn Manufacturing Company to cover losses during the early years of operation. In the petition applicants refer to the \$61,707.67 as the value placed on the franchises. However, the testimony given at the hearing indicates that applicants consider this item as development cost rather than as franchise value and urge that it is a proper basis for the Commission to use in making an order authorizing the issue of stock. I am unable to agree with this contention. Harry R. Staples, vice president and secretary of the old company and also of the Dunn Manufacturing Company, testified that the business was started by certain individuals who were purchasing trucks under contracts from Dunn Manufacturing Company, that because of poor management the operations from their inception were unsuccessful and that the Dunn Manufacturing Company, in order to avoid loss, was eventually compelled to take over the business. His testimony and the application further show that the officials of Dunn Manufacturing Company met the losses incurred, but for some time left the control and management of the auto stage business to one of their employees. The losses continuing, it became apparent to those in control of Dunn Manufacturing Company that they must give their personal attention to the stage business. After about a year under the direct management of the officials of Dunn Manufacturing Company, the business began to show a profit, which has steadily increased.

It appears to me that under circumstances such as those of the present proceeding, the Commission should not authorize the issue of stock to cover these early operating losses. Further, for reasons indicated above, I am unwilling to recommend the issue of stock against the leasehold values herein claimed. I believe that for the purposes of this proceeding Los Angeles and Santa Barbara Motor Express Company, Incorporated, may be permitted to issue not exceeding \$56,600 of stock.

After the stock has been issued, the old company may sell the stock to Mr. W. W. McKee without an order from the Commission. For want of jurisdiction I suggest that that portion of the application relating to the sale of stock by Los Angeles and Santa Barbara Motor Express Company to Mr. McKee be dismissed.

I herewith submit the following form of order:

**ORDER.**

Application having been made to the Railroad Commission for an order authorizing the issue of \$125,000 of stock and the transfer of operative rights and properties, a public hearing having been held, and the Railroad Commission being of the opinion that the transfer of operative rights and properties should be permitted and that the issue of \$56,600 of stock should be authorized by the Commission;

*It is hereby ordered*, that Los Angeles and Santa Barbara Motor Express Company be and it is hereby authorized to transfer and sell, and Los Angeles and Santa Barbara Motor Express Company, Incorporated, be and it is hereby authorized to acquire and purchase the properties and rights owned and operated by Los Angeles and Santa Barbara Motor Express Company.

*It is hereby further ordered*, that Los Angeles and Santa Barbara Motor Express Company, Incorporated, be and it is hereby authorized to issue in payment for such properties not exceeding \$56,600 of stock.

*It is hereby further ordered*, that the application, in so far as it relates to the issue of \$68,400 of stock and the sale of stock by Los Angeles and Santa Barbara Motor Express Company, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. Los Angeles and Santa Barbara Motor Express Company shall cancel immediately all time schedules, tariffs, rates and classifications at present on file with the Railroad Commission, and Los Angeles and Santa Barbara Motor Express Company, Incorporated, shall file immediately new time schedules, rates, tariffs and classifications, or adopt as its own the time schedules, tariffs, rates and classifications

heretofore filed by Los Angeles and Santa Barbara Motor Express Company, all such new schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission; such cancellations and filings to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges the transfer of which is herein authorized may not again be transferred, assigned, leased, sold, hypothecated, or operations thereunder discontinued, unless the written consent of the Railroad Commission to such transfer, assignment, lease, sale, hypothecation or discontinuance shall have first been secured.

3. No vehicle may be operated by Los Angeles and Santa Barbara Motor Express Company, Incorporated, under the authority contained in this decision unless such vehicle is owned by said company or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The price at which Los Angeles and Santa Barbara Motor Express Company is herein authorized to transfer properties shall never be urged before this Commission, or other court or public body having jurisdiction, as a measure of value of said properties for the purpose of fixing rates, or for any purpose other than the transfer herein authorized.

5. Within thirty days after the issue and delivery of the stock herein authorized, Los Angeles and Santa Barbara Motor Express Company, Incorporated, shall file with the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to transfer rights and properties and to issue stock will become effective upon the date hereof, but will expire on September 30, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of June, 1923.



## DECISION No. 12232.

IN THE MATTER OF THE APPLICATION OF OCEAN PARK HEIGHTS  
LAND AND WATER COMPANY FOR AUTHORITY TO INCREASE  
THE WATER RATES AND TO AMEND ITS RULES.

Application No. 8985.

IN THE MATTER OF INVESTIGATION ON COMMISSION'S OWN MOTION  
INTO THE RATES, RULES, REGULATIONS, PRACTICES AND  
SERVICE OF A. D. ROBINSON, OPERATING A PUBLIC UTILITY  
WATER SYSTEM UNDER THE NAME AND STYLE OF OCEAN  
PARK HEIGHTS LAND AND WATER COMPANY.

Case No. 1909.

Decided June 19, 1923.

*Hilton and Christensen*, by *S. X. Christensen*, for Applicant.  
*J. Lane and F. T. Jordon*, for Consumers in hill section.  
*H. R. Lee*, for Consumers in Culver Garden Tract.  
*Howard Robertson*, for owner of Tract No. 3901.  
*C. A. Short*, for owners of Tract No. 6052.

BY THE COMMISSION.

## OPINION.

Ocean Park Heights Land and Water Company, an unincorporated public utility, owned and operated by Annie Dell Segno Robinson, makes application as above entitled for authority to increase the rates for water supplied to consumers in Ocean Park Heights Tract and certain adjacent realty subdivisions in Los Angeles County.

The application alleges in effect that the present rate schedule does not produce sufficient revenue to meet the necessary annual charges for operation of the system.

Case No. 1909, as entitled above, is a proceeding instituted by this Commission on its own motion, following a number of informal complaints, recently filed by consumers regarding inadequate water supply and pressures on the system, regarding the practices of the company in demanding deposits for installation of meters and services and failure to make proper rebates therefor; and also regarding operating methods and practices in general.

A public hearing in these proceedings was held at Los Angeles before Examiner Satterwhite. By stipulation at the hearing, the two matters were consolidated for the purpose of receiving evidence and for decision.

The original plant of this utility was installed about 1909 by Ocean Park Heights Land and Water Company, a corporation, to serve its realty subdivision, known as Ocean Park Heights Tract, and certain adjoining tracts. Mrs. Robinson, the present owner, acquired the system about 1912 in connection with the purchase of an acreage tract and lots. Shortly afterwards, all the real estate was lost under fore-

closure proceedings, but the public utility property was left in her ownership.

About 1914 the flow of the original well on the hill diminished, the supply of water became inadequate, and a new well and pumping equipment were installed on a lot at a lower level, which is the present source of supply. Connections were made from time to time with adjacent subdivisions, whose promoters had installed distribution pipe mains thereon, and it appears that many of the distribution mains of the system have been donated to the present owner in consideration of the rendering of water service to consumers on these tracts. In 1921 an additional well and pumping equipment were installed and the present operative system consists of two wells with pumping equipment discharging into a concrete sump, from which a booster pump delivers the water directly into the distribution mains, the excess going into a 19,000-gallon regulating reservoir on the hill. At present there are about 255 active consumers, all of whom are metered.

A field investigation of the system was made by H. A. Noble, one of the Commission's hydraulic engineers, and his report and detailed appraisal, which were submitted in evidence, show an estimated original cost of the present operative system amounting to \$51,911 and a depreciation annuity of \$1,185, the annuity having been computed by the sinking fund method at 6 per cent. The report and appraisal of the Commission's engineer were accepted without protest.

Applicant submitted no schedule or appraisal of its properties, but gave the incomplete capital investment as set out in its annual reports to the Commission as approximately \$47,000.

The evidence shows that the distribution pipe system, which has been in a large measure installed to promote realty sales, is overbuilt, and the tracts served are generally sparsely settled and in the development stage. The total length of distribution mains installed shows an average length per active service of approximately 335 feet. It is obvious, under the circumstances, that applicant can not reasonably expect, and is not entitled to, an interest return upon the full estimated original cost of its plant, which would result in the establishment of rates higher than the service is reasonably worth.

The present rates charged by this utility were established by this Commission, in Decision No. 5973, dated December 3, 1918, and are as follows:

Monthly minimum meter charge.....	\$1 00
Monthly meter rates:	
From 0 to 400 cubic feet, per 100 cubic feet.....	\$0 25
From 400 to 2000 cubic feet, per 100 cubic feet.....	21
Over 2000 cubic feet, per 100 cubic feet.....	18

The revenues and the maintenance and operation expenses, exclusive of depreciation, for the past four years, as given in the annual reports of applicant to the commission, were as follows:

	1919	1920	1921	1922
Revenues -----	\$2,528 00	\$3,550 00	\$4,638 00	\$6,213 00
Maintenance and operating expenses -----	\$2,037 00	\$3,370 00	\$4,362 00	\$5,510 00

From the evidence it appears that the large increase shown in operating expenses in 1921 and 1922 is largely accounted for by the increased cost of management and the inclusion of items for extra labor and materials properly chargeable to additions and betterments to plant. Included in expenses for 1922 were some items of extraordinary expense, which would probably not recur annually in like amount under normal operating conditions. The Commission's engineer submitted an estimate of \$4,155 as a reasonable allowance for operating expenses, based on an analysis of the details of the operating expenses the past two years, and taking into consideration the operating conditions and methods obtaining in the past. Applicant's estimate of \$5,440, as submitted, was admittedly incomplete and indefinite as to details.

After a careful consideration and analysis of all the evidence submitted, and allowing for such improvements in operation methods and conditions as are necessary in order that adequate and efficient service may be rendered, it appears that the sum of \$4,500 should be allowed for future maintenance and operating expenses, and that the allowance for depreciation annuity should be \$1,200, the total for the two items of expense being \$5,700.

The gross revenues for the year 1922 amounted to \$6,213, and were approximately \$500 in excess of the total estimated expense set out above, and it appears that some increase in the utility's rates is justified. The schedule of rates set out in the accompanying order is designed to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity, and a reasonable return upon the cost to the utility of the property devoted to the public use.

Considerable testimony was introduced regarding inadequate water service and pressures, also regarding the operating methods and practices of the utility in general, which matters have led to the filing of a number of informal complaints with the Commission, in an endeavor to obtain relief.

It appears from the evidence that the inadequate service complained of is confined largely to the hill area in the vicinity of the reservoir, and occurs during the periods of peak draft on the system when there is a general irrigation of gardens and grounds, and the utility's small storage capacity is exhausted.

It is recommended that the utility proceed at once with an investigation to determine the most feasible methods for the improvement of its water development, storage and distribution systems, so that adequate and proper service may be rendered to consumers, and that, following approval by this Commission, the improvements be made in accordance with the adopted plans.

Complaints regarding deposits demanded of consumers for the cost of installing meters and services and the methods of returning these deposits indicate that the utility has, in some instances, exceeded the authority permitted by its rules and regulations. During the past two years, applicant has demanded a deposit for the installation of all new services, while the rules at present in effect provide that such a deposit may be required only for temporary dwellings and for vacant lots.

It therefore appears that consumers who have made such deposits and have not received proper refunds are entitled to redress and that the utility should make the proper adjustments or rebates.

Consumers complain that applicant has no office located on the system and that no resident employee has been delegated with authority to deal with the public in the absence of the manager. This condition causes inconvenience and discord and should be remedied.

The matter of the contemplated extension of service from this system to certain new subdivisions should be carefully considered by applicant, since it involves the adequacy and capacity of the system to render service to present consumers. The evidence indicates that some of applicant's present consumers do not at times receive adequate service, although the territory now supplied is only partially developed and built up. It does not, therefore, appear advisable to take on additional territory until such time as the existing inadequacy of service is fully remedied.

A consideration of the evidence relating to the various service complaints indicates that certain additional and revised rules and regulations are necessary to clear the present situation, and to improve service conditions generally. It is therefore recommended that this utility be required to file with the Commission a revised set of rules and regulations to govern the distribution and sale of water to consumers.

#### ORDER.

Ocean Park Heights Land and Water Company having applied to this Commission for an order authorizing it to increase its rates, and this Commission having instituted an investigation on its own motion into the rates, rules, regulations, practices and service of the utility, a public hearing having been held in the combined proceedings and the Commission being fully advised in the matter:

It is hereby found as a fact that the present rates of A. D. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, in so far as they differ from the rates herein established, are unjust and unreasonable for adequate service, and that the rates herein established are just and reasonable rates to be charged for water delivered to consumers for such adequate service; and

It is hereby further found as a fact that the service rendered by A. D. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, has been inadequate and insufficient and that certain improvements to the utility's water system and methods of operation are required in order that adequate and satisfactory service may be rendered to consumers.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order;

*It is hereby ordered*, that A. D. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, be and she is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers, and to become effective as of the date and under the conditions hereinafter provided for.

*Rate Schedule.*

1. Monthly minimum charges for metered use:

For $\frac{1}{8}$ -inch meters.....	\$1 25
For $\frac{1}{4}$ -inch meters.....	2 00
For 1 -inch meters.....	3 00
For 1½-inch meters.....	5 00
For 2 -inch meters.....	8 00

2. Monthly quantity rates:

For use between 0 and 400 cubic feet.....	\$0 31½ per 100 cubic feet
For use between 400 and 2000 cubic feet.....	21 per 100 cubic feet
For use over 2000 cubic feet.....	18 per 100 cubic feet

*It is hereby further ordered*, that A. D. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company, be and she is hereby directed to file with this Commission, within thirty (30) days from the date of this order, revised rules and regulations as recommended in the preceding opinion.

*It is hereby further ordered*, that A. D. Robinson, operating under the name and style of Ocean Park Heights Land and Water Company shall, within thirty (30) days from the date of this order, submit to this Commission, for its approval, plans and specifications for the improvement of its water development, storage and distribution systems, which will remedy the existing condition of water shortage in the hill area and on the system generally, and that, following such approval

by the Commission, the installation of such improvements shall immediately be made in accordance with the plans and specifications.

*It is hereby further ordered*, that the rate schedule as set out in this order may be charged and shall become effective only upon the completion of the improvements to the water development, storage and distribution systems of the utility as ordered herein and upon the issuance of a supplemental order by this Commission indicating a final acceptance of the improvements as installed.

*It is hereby further ordered*, that A. D. Robinson, doing business under the name and style of Ocean Park Heights Land and Water Company, be and she is hereby directed to refund to consumers all money paid or deposited by them for the installation of services and meters. Such refunds shall be made as credits on the monthly bills for water consumed at the rate of thirty (30) per cent of the monthly bills until such time as the entire amounts paid or deposited have been returned.

*It is hereby further ordered*, that A. D. Robinson, doing business under the name and style of Ocean Park Heights Land and Water Company, be and she is hereby directed to establish means whereby bills for service rendered may be conveniently paid, and whereby complaints may be made by consumers, either by the establishment of an office at a location on or close to the tract, or by the delegation of proper authority to some resident employee to receive moneys due for service rendered and to remedy conditions causing complaint from consumers, or by a combination of the methods suggested, subject to the approval of the Commission.

Dated at San Francisco, California, this nineteenth day of June, 1923.

## DECISION No. 12239.

IN THE MATTER OF THE APPLICATION OF ANGLO-CALIFORNIA TRUST COMPANY, A CORPORATION, AS ADMINISTRATOR WITH THE WILL ANNEXED OF THE ESTATE OF W. B. HELLINGS, DECEASED, AND AS TRUSTEE OF THE CREDITORS AND STOCKHOLDERS OF NORTH RICHMOND LAND AND FERRY COMPANY, FOR AN ORDER DISCONTINUING WATER SERVICE NEAR SAN PABLO, CONTRA COSTA COUNTY, CALIFORNIA.

Application No. 8130.

Decided June 21, 1923.

**SERVICE—WATER.**—The state can not compel continued operation of a public utility at a loss. Applicant should, on showing made at hearing, be relieved of public utility obligations. Reasonable period allowed consumers to secure another source of supply.

*H. F. Sullivan*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application, Anglo-California Trust Company, a corporation, asks for an order authorizing it to discontinue operation of a water system located near San Pablo, Contra Costa County, and to sell or otherwise dispose of the said water system.

A public hearing in this matter was held at Richmond, before Examiner Satterwhite. All interested parties had been duly notified and given an opportunity to be present and to be heard. No one appeared to protest the granting of the application.

In February, 1912, W. B. Hellings and North Richmond Land and Ferry Company, a corporation, entered into an agreement to sell to F. S. Morsman and F. L. Keller a thirty-acre tract of land, known as North Richmond Land and Ferry Company's Tract No. 1, being part of Lot No. 198 of Rancho San Pablo in Contra Costa County. In March, 1915, deeds were executed and the sale consummated.

In October, 1912, North Richmond Land and Ferry Company, a corporation, entered into an agreement to sell to Truman Investment Company, a corporation, a tract of land containing thirty-four acres, being a part of Lot No. 198 of Rancho San Pablo. Subsequently a deed was executed and the transfer concluded.

In the first of these agreements W. B. Hellings and North Richmond Land and Ferry Company agreed to install a water system on the tract for the purpose of supplying water for domestic purposes to each house which should be built upon the tract, and to charge for such water service the sum of \$1 per month.

In the second agreement a similar obligation was assumed by North Richmond Land and Ferry Company.

Approximately eighty lots in these tracts were sold, mostly to non-residents, and testimony shows that at no time have more than five consumers been supplied with water, three of the consumers being

located on land owned by the proprietors of the tracts and two on adjacent land.

The water system has been continuously operated at a loss, as the revenues are approximately \$60 per annum, while the expense of operation, exclusive of taxes, depreciation, repairs and return upon investment, is approximately \$200 per annum. The owners of the water system, therefore, ask permission to discontinue service and to sell or otherwise dispose of the plant.

It is apparent that any water rate which would return to the owners of the plant, even the bare cost of operation and maintenance would be an undue burden upon the consumer and would also be more than the service is worth.

It was suggested that East Bay Water Company take over and operate this system and after an examination thereof that company agreed to the plan with the proviso that releases be secured from lot owners so that the established rates of East Bay Water Company could be substituted for the agreed rate of \$1 per month. This could not be accomplished as the lot owners are practically all nonresidents and are scattered over a large portion of the United States.

It is a well established principle in law that the state can not compel the continued operation of a public utility at a loss, and applicant should, therefore, in the showing made at the hearing in this matter, be relieved of such public utility obligations as exist regarding the service of water to consumers on the tracts of land covered by this application. A reasonable period of time should, however, be allowed consumers to secure another source of supply.

#### ORDER.

Application having been made to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the applicant herein should be relieved of such public utility obligations as exist regarding service of water to the tracts covered by the application herein.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that on and after November 1, 1923, Anglo-California Trust Company, a corporation, as administrator with the will annexed of the estate of W. B. Hellings, deceased, and as trustee of the creditors and stockholders of North Richmond Land and Ferry Company, be and the same is hereby relieved of such public utility obligations as may have heretofore existed regarding service of water to consumers on the tracts of land described in the application herein.

Dated at San Francisco, California, this twenty-first day of June, 1923.



## DECISION No. 12242.

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED WATER COMPANY OF POMONA, A CORPORATION, ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, ASKING FOR A HEARING IN REGARD TO INCREASING THE RATES.

Application No. 6409.

Decided June 21, 1923.

**RATES—WATER—FAIR RETURN.**—The evidence submitted clearly indicates that the results of operation in any single year are not truly indicative of the rate of return upon the fair value of the property. In justice to both consumers and the utility, average conditions experienced in operation over a period of years should be used in a final determination of the reasonableness of the utility's rate schedule.

*Haas and Dunnigan*, by *Walter F. Haas*, for Applicant.  
*J. A. Allard*, City Attorney, for the City of Pomona.

BY THE COMMISSION.

**OPINION AND ORDER ON REHEARING.**

By Decision No. 10177, dated March 11, 1922, this Commission granted the Consolidated Water Company of Pomona authority to increase rates. Application for rehearing was filed on April 3, 1922, by the city of Pomona, which alleged in effect that the rates established by the Commission would yield the utility an unreasonable and exorbitant return upon a fair value of the property.

On July 7, 1922, the Commission ordered a rehearing which was held before Examiner Satterwhite at Pomona. Briefs have been filed, the matter has been submitted and the Commission is now fully informed in the matter.

The testimony presented by A. L. Sonderegger, consulting engineer for the city of Pomona; by C. H. Loveland and Willis S. Jones, consulting engineers for Consolidated Water Company of Pomona; and by James Whitaker, special accountant, and F. M. Faude, assistant engineer, for the Railroad Commission, was unusually complete and exhaustive, in addition to being extremely contradictory in character, as is evidenced by the figures contained in the following paragraph.

The estimated fair value for rate-fixing purposes of the property devoted to the public use, as of December 31, 1922, ranged from \$434,240 to \$807,159 in the various reports and exhibits presented at the hearing for the Commission's consideration. Estimates for depreciation annuity varied from \$7,020 to \$14,500, and maintenance and operation expense for the year 1922 was variously shown in amounts from \$42,790 to \$45,447. Total operating revenues for the year, including three months' operation under the old rate schedule and nine months' operation under the revised rates, were shown as \$115,918 and \$117,750. The data presented for the years previous to 1922 showed practically the same wide variation.

The situation is further complicated by the fact that this utility secures its water supply from both gravity and underground sources, and that the conditions affecting the supply are constantly changing. In some years, due to abundant rainfall, the portion of the supply secured by gravity is greatly increased and the necessity for pumping is materially decreased. In years of deficient rainfall, the gravity supply diminishes and a very large portion of the supply must be secured by pumping from a water plane that is constantly receding. For this reason the cost of securing the water supply varies widely from year to year and can not be forecast with any degree of accuracy.

The evidence clearly shows that, owing to a very plentiful supply of gravity water during the year 1922, pumping expense was very materially reduced. Other costs were also below normal, and the year 1922 was one of extremely favorable conditions from the standpoint of economical operation. Such favorable conditions can not be expected to continue, and it is evident that future costs of operation will be in excess of those incurred during the year 1922.

Under the circumstances a decision which will impartially and equitably determine the various elements entering into the question of a fair return upon the utility's investment is a very difficult matter. The evidence submitted clearly indicates that the results of operation in any single year are not truly indicative of the rate of return upon the fair value of the property, and that, in justice to both the consumers and the utility, average conditions experienced in operation over a period of years should be used in a final determination of the reasonableness of the utility's rate schedule.

The evidence covering the various items has been very carefully considered and it appears to the Commission that the following tabulation is a reasonable and equitable showing of the results of operation by this utility from 1918 to 1922, inclusive:

	1918	1919	1920	1921	1922
Fair value for rate-fixing purposes of the property devoted to public use	\$602,000 00	\$608,000 00	\$130,000 00	\$658,000 00	\$700,000 00
Maintenance and operation expense..	\$24,998 00	\$35,771 00	\$48,006 00	\$13,859 00	\$45,447 00
Depreciation annuity .....	8,600 00	8,700 00	9,000 00	9,400 00	10,000 00
Total expense .....	\$33,598 00	\$44,471 00	\$57,006 00	\$53,259 00	\$55,447 00
Operating revenues .....	\$68,020 00	\$75,394 00	\$81,437 00	\$93,352 00	\$117,750 00
Total expense .....	33,598 00	44,471 00	57,006 00	53,259 00	55,447 00
Available for return.....	\$34,422 00	\$30,923 00	\$24,431 00	\$30,093 00	\$62,303 00
Rate of return upon fair value for rate-fixing purposes of the property devoted to public use.....	5.72%	5.09%	3.88%	4.56%	8.9%

The average rate of return for the five-year period is 5.63 per cent.

Similar computations for the period from 1913 to 1917, inclusive, show an average rate of return of 5.59 per cent.

While the rate of return earned in 1922 is somewhat higher than is usually allowed by the Commission in rate-fixing proceedings of this character, the average rates of return for various periods, as shown below, indicate that the utility has for years enjoyed a return of considerably less than a theoretical fair return of 8 per cent which the Commission has allowed in many proceedings:

1918-1922, inclusive	5.63 per cent return
1919-1922, inclusive	5.61 per cent return
1920-1922, inclusive	5.78 per cent return
1921-1922, inclusive	6.73 per cent return

In view of the fact that the foregoing average rates of return can not be considered unreasonable or exorbitant, and that the present rates of this utility are not in excess of those charged by other utilities rendering a comparable service in this general vicinity, it does not appear advisable at this time to reduce the rates. It appears, however, that the Commission should be fully informed in the matter so that at any time in the future such changes in the utility's rate schedule as are justified may be made without unnecessary delay. The Commission will, therefore, require that the utility file monthly reports of revenues and operating expenses for use in checking results of operation.

#### ORDER.

The city of Pomona, having filed a petition for rehearing in the above entitled matter, and a rehearing therein having been granted and a public hearing having been held thereon, briefs having been filed, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates fixed by this Commission in Decision No. 10177, dated March 11, 1922, to be charged by Consolidated Water Company of Pomona, a corporation, for water delivered to consumers in, and in the vicinity of, the city of Pomona, are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

*It is hereby ordered*, that the rates established by this Commission, in Decision No. 10177, dated March 11, 1922, to be charged by Consolidated Water Company of Pomona, a corporation, for water delivered to consumers in, and in the vicinity of, the city of Pomona, shall continue in effect until further order of this Commission; and

*It is hereby further ordered*, that Consolidated Water Company of Pomona, a corporation, be and the same is hereby directed to file with this Commission on or before the last day of each month a complete statement of revenues, operating expenses and water delivered for the

preceding month, in such form and detail as the Commission may, from time to time, direct.

Dated at San Francisco, California, this twenty-first day of June, 1923.

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DECISION No. 12256.

CLARA E. COFFEE, ALSO KNOWN AS MRS. LAWRENCE W. COFFEE,  
*vs.*

THE SANTA CRUZ COUNTY UTILITIES COMPANY, A CORPORATION.

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Case No. 1872.

Decided June 25, 1923.

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*Clara E. Coffee, in propria persona.*

*Wright, Wright and Stetson, by George T. Wright, for Defendant.*

BY THE COMMISSION.

OPINION.

The complaint in the above entitled matter alleges in effect that Clara E. Coffee owns and operates a public utility water system serving the inhabitants of the town of Glen Arbor in Santa Cruz County, and that defendant, The Santa Cruz County Utilities Company, a corporation, has collected without authority water bills from her consumers and otherwise interfered with the proper operation of her water business, thereby causing complainant serious inconvenience and annoyance and also creating great dissatisfaction among complainant's consumers. The Commission is requested to order the defendant to refrain from further interference with the operation of this water system. By way of answer the defendant sets up a general denial of the allegations in the complaint.

A public hearing in this matter was held before Examiner Satterwhite at Boulder Creek, Santa Cruz County.

The evidence clearly indicates that defendant, whose true name is Santa Cruz County Utilities, a corporation, has without legal authority interfered with the operation of this water system against the wishes of the complainant. Serious confusion has resulted from the acts of the defendant. Many consumers have received water bills from both complainant and defendant, requesting payment for the same service. Conditions have been reduced to such a state that consumers are unable to determine the actual ownership of this water system. Manifestly, such conditions are intolerable and unnecessary, render impossible efficient water service; and militate against economical operation.

## ORDER.

Complaint having been made by Clara E. Coffee, also known as Mrs. Lawrence W. Coffee, as outlined in the opinion preceding this order, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the acts of the Santa Cruz County Utilities, a corporation, described in the complaint herein as The Santa Cruz County Utilities Company, a corporation, in interfering with the operation of Clara E. Coffee's water system at Glen Arbor, have created conditions detrimental to the rendering of proper service, and detrimental to the best interests of the public.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that The Santa Cruz County Utilities refrain henceforth from collecting or attempting to collect any charges, rates or bills for service rendered by or from complainant's water system.

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

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DECISION No. 12257.

R. E. WOOD ET AL.

*vs.*

RANDBURG WATER COMPANY.

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Case No. 1890.

Decided June 25, 1923.

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RATES—WATER—HAZARDOUS CONDITIONS—INVESTOR MUST ASSUME RISK.—Due consideration should be given to the rather hazardous conditions of operation; to the fluctuations in water use; and that a reduction in rates would so embarrass the owners financially that the service would become worse than at present. Such a business is in its nature hazardous, and the investor must assume the risk.

*Rowen Irwin and Rollin Laird, by Rollin Laird, for Complainants.*  
*A. E. Park, for Defendant.*

WHITTLESEY, *Commissioner.*

## OPINION.

This is a complaint filed by R. E. Wood and twenty-four others, against the Randburg Water Company, complainants all purporting to be consumers of the defendant water company. In this complaint it is alleged in effect that the defendant does not furnish to its consumers a uniform or adequate service; that the water rates are discriminatory; that the meter rates are excessive and exorbitant, and that the consumers on a metered basis are in many cases overcharged due to air passing through their meters, which collects in the mains during times when the pipes

are allowed to become empty. Complainants therefore ask that the Commission fix a uniform and reasonable rate for the service rendered and for such other and further relief as the Commission may deem equitable in the premises. Defendant in its answer makes a general denial of the allegations of complainants.

A public hearing in this proceeding was held in Randsburg, all interested parties being duly notified, and given an opportunity to appear and be heard.

The evidence shows that the defendant water company began serving water for compensation about 1903, to consumers in the unincorporated mining towns of Johannesburg and Randsburg, under the supervision of C. A. Burcham. Nine years later the Randsburg Water Company and the water system of the Yellow Aster Mining and Milling Company were consolidated and operated by the defendant in this proceeding. It was agreed that for the use of the mining company's equipment, which consisted of a well, a booster pump station and a transmission line from the source of the water supply to Randsburg, the Randsburg Water Company would deliver free of charge to the Yellow Aster Mining and Milling Company at its mine near Randsburg, sufficient water to meet its needs for domestic purposes, providing this amount did not exceed the amount obtained from the mining company's well, the water company to pay all operating costs connected with the operation of the entire water system, and provided further that in the event the use at the mine exceeds the amount obtained at the mining company's well the excess shall be paid for at the prevailing rates of the water company.

Water for the system is at present obtained from two wells, one belonging to the Randsburg Water Company, which is a shaft 4 by 6 feet in cross-section and 380 feet deep; the other belonging to the Yellow Aster Mining and Milling Company, referred to above, which consists of a shaft 4 by 9 feet in cross-section and 280 feet deep, with a 4 by 7 foot drift 580 feet long. Water is pumped from the wells into a 30,000 gallon tank, from which it passes through the booster pump and is delivered through the transmission mains to the various mining camps served. The only storage connected with the Randsburg Water Company's system is a 30,000 gallon steel tank at the booster pump station and a 13,000 gallon steel tank at the Yellow Aster Mine.

Practically all the water delivered by this utility is used for domestic purposes, and at present there are some 345 consumers being supplied, of whom about 45 are on a metered basis, the remainder being served under flat rates varying from \$1 to \$12.50 per month. The origin of the rate schedule at present in effect dates back to the time when the company was organized in about 1903, with the exception of a few changes which have been made from time to time to take care of the prevailing conditions.

The Commission's files show this utility's legal rates to be as follows:

*Rates for Metered Service.*

	Per month
First 1000 gallons -----	\$10 00
Next 4000 gallons, per 1000 gallons -----	7 50
Next 25,000 gallons, per 1000 gallons -----	5 00
Over 30,000 gallons, per 1000 gallons -----	2 00
Minimum charge for metered service -----	3 50

*Monthly Flat Rates.*

For one adult, not housekeeping -----	1 00
For one adult, housekeeping -----	2 00
For one family, house not modern -----	3 50
For one family, modern house -----	5 00
For one office, store or hall -----	3 50
For garage or filling station, not washing cars -----	5 00
For shower bath, add -----	1 50
For any consumption where it is impossible to meter the water the charge will be based on an average of a like consumption which is metered. A "family" is considered to be man and wife with or without minor dependents, or dependents not minors, but not more than two such adult dependents.	
For each additional adult (not dependent) will be considered as a joint consumer at -----	1 00
For rooming house \$3.50 per month plus \$0.50 per month for each room.	

The testimony shows that the consumers of the Randsburg Water Company, suffer considerable inconvenience due to the intermittent service which occurs at times. The service varies considerably in different parts of the utility's distribution system, as the district served is mountainous, and consumers on the lower levels obtain adequate service while those residing in the higher portions of the town receive an inadequate supply and are frequently obliged to carry water to satisfy their requirements.

Testimony was introduced to show that the rates charged consumers are discriminatory in that different rates are charged for similar service, the principal objection being that the bills for metered service to business houses are far in excess of those served on a flat rate.

A report prepared by J. G. Hunter, one of the Commission's hydraulic engineers, was presented in evidence and admitted as Commission's Exhibit No. 1. This report shows the estimated original cost of the physical properties of the Randsburg Water Company and those belonging to the Yellow Aster Mining and Milling Company which are used in connection with the operation of the water system under the agreement referred to above, and the depreciation annuities of the properties calculated by the sinking fund method, as follows:

	Estimated original cost	Depreciation annuity 5% S. F.
Total physical property of Randsburg Water Company----	\$44,349 00	\$1,386 00
Total physical property of Yellow Aster Mining Company--	50,015 00	764 00
Total physical property of entire property devoted to public use -----	\$94,364 00	\$2,150 00

The evidence shows that the entire property, whose estimated original cost is set out above as \$94,364, is used, and is indispensable in the service of the utility's consumers. The entire amount should, therefore, be included in the rate base.

The report also shows the estimated reasonable annual maintenance and operation expense to be \$10,654.

Annual charges based upon the foregoing items, are as follows:

Return at 8 per cent upon \$94,364-----	\$7,549 00
Depreciation annuity-----	2,150 00
Maintenance and operating expenses-----	10,654 00
Total -----	\$20,353 00

The operating revenues of the Randsburg Water Company, if all water used by the Yellow Aster Mining and Milling Company had been charged for at the regular rates, would have been approximately as follows:

1913-----	\$12,900 00	1918-----	\$15,227 00
1914-----	13,703 00	1919-----	10,761 00
1915-----	12,902 00	1920-----	8,325 00
1916-----	14,892 00	1921-----	12,996 00
1917-----	14,606 00	1922-----	18,770 00

Neither the complainants or defendant made any showing relative to the investment in the operative property of the Randsburg Water Company.

Attention is called to the fact that there is considerable fluctuation in the operating revenue received by this utility, this being due to the variation in the mining industry of the district served. Attention is also called to the fact that the annual charges set out above are in excess of the revenue received during any year since 1912.

In fixing an equitable rate schedule for this utility to apply for future service, due consideration should be given to the rather hazardous conditions under which it is operating, to the fluctuations in water use, to the fact that since 1909 practically all revenues in excess of operating expenses have been expended in extensions and improvements to the system, and to the probability that a reduction in rates would so financially embarrass the owners that service to consumers would become worse than it is at present.

On the other hand, rates can not be sufficiently high to assure each year a good profit on the total value of this property, as they would have to be excessive for those customers who continue through the "lean" years. Such a business is in its nature hazardous and the investor must assume the risk.

Under the circumstances a change in the utility's rate schedule which would reduce the revenues is not justified. It appears, however, that



the schedule could be more equitably balanced by certain adjustments which will be provided for in the following order.

Considerable evidence was introduced to show that the service was inadequate, and it is evident that the utility should be required to improve the service by installing storage tanks to serve the various camps. This additional installation could be made at a comparatively small expense and would not only improve the service but should reduce operating expenses to some extent.

The testimony also shows that some discrimination exists in the rates various consumers of the system are required to pay, and a number of cases were cited where consumers on a metered basis pay considerably more than those on a flat rate for similar service. To remove this discrimination, all the business houses should be metered. Meters will not only remove any discrimination which may now exist but will also tend to conserve water which will in turn have a good effect upon the service. Meters should also be installed at dwellings where there appears to be an excessive use of water.

Due to the fact the amount of fresh water now available in the vicinity of Randsburg is very limited and the cost of producing the same is very high as compared with other public utility water systems of this state, the utility should lend every effort to prevent the wasting of water, and thereby better the service to its consumers who are entitled to the best service the utility can reasonably give them under the conditions prevailing.

In view of the fact the utility has recently filed with this Commission a schedule of rules and regulations to govern relations with its consumers, the requirement of filing a new schedule, which is usually included, will be eliminated in the following order:

#### ORDER.

Complaint having been made to the Railroad Commission as entitled above, a public hearing having been held thereon, and the Commission being now fully advised in the matter:

It is hereby found as a fact that the rates now charged by the Randsburg Water Company for water delivered to its consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service; and

It is hereby further found as a fact that the service heretofore rendered by the Randsburg Water Company to its consumers has been unsatisfactory and insufficient at times and should be improved.

And basing the order upon the foregoing findings of fact, and upon the statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that the Randsburg Water Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, to be charged for all water delivered to its consumers on and after August 1, 1923:

*Monthly Meter Rates.*

First 1000 gallons, per 100 gallons.....	\$1 00
From 1000 to 5000 gallons, per 100 gallons.....	75
From 5000 to 30,000 gallons, per 100 gallons.....	50
Over 30,000 gallons, per 100 gallons.....	20
Monthly minimum charge for metered service.....	3 00

*Monthly Flat Rates.*

Residence occupied by one person, not housekeeping.....	1 00
For each additional person.....	75
Residence occupied by one person, housekeeping.....	2 00
For each additional person.....	1 50
Residence, not modern, occupied by one family.....	3 50
For each additional person.....	1 00
Residence, modern, occupied by one family.....	5 00
For each additional person.....	1 50
Office, store, or hall.....	3 50

All other uses to be on a metered basis.

*It is hereby further ordered*, that the Randsburg Water Company be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, for its approval, plans for the improvement of its water service, said plans to contemplate the installation of storage tanks or reservoirs to serve the various camps of its service district.

Upon receiving approval from this Commission of the plans submitted, the Randsburg Water Company shall forthwith proceed to make such improvement in a diligent manner and notify the Commission when the improvements are completed.

*It is hereby further ordered*, that Randsburg Water Company be and it is hereby directed to begin at once, and to proceed diligently to complete, the metering of all services to business establishments served by its water system, so that all such business establishments may be supplied at meter rates not later than December 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

## DECISION No. 12259.

IN THE MATTER OF THE APPLICATION OF H. K. SEARS, OWNER OF GERBER WATER WORKS, AT GERBER, TEHAMA COUNTY, CALIFORNIA, FOR PERMISSION TO INCREASE THE WATER RATES.

Application No. 8946.

Decided June 25, 1923.

*Miss J. G. Ross*, for Applicant.

BY THE COMMISSION.

## OPINION.

H. K. Sears, applicant herein, owns and operates a public utility water system under the name and style of Gerber Water Works, which furnishes water for domestic and industrial purposes to the inhabitants of the town of Gerber and vicinity, Tehama County. The application alleges in effect that the present water rates are inadequate and do not equitably distribute the charges to the various consumers in accordance with the use of water, and the request is made that the Commission make an order authorizing a revised schedule of flat rates and also to establish meter rates.

A public hearing in this proceeding was held at Gerber before Examiner Satterwhite of which all interested parties were duly notified and given an opportunity to appear and to be heard.

The original water system was installed in 1911 by the Tehama Investment Company to serve its realty subdivision on the site of the town of Gerber and to promote the sale of lots. About 1916 the Gerber Terminal Townsite Company acquired the ownership. In December, 1921, the present owner purchased the system from the latter company for a consideration of \$15,000, which transfer was authorized by this Commission in Decision No. 10907 rendered August 24, 1922, in Application No. 7875. The Tehama Investment Company joined in the application in order to clear title.

The water supply is obtained by pumping from a well into a 22,000 gallon tank and from thence is delivered to the distribution system, which consists of approximately 22,200 lineal feet of 6, 4 and 2-inch O. D. casing. At present there are about 160 service connections, including those inactive.

The 1922 annual report filed by applicant with the Commission shows a total of \$15,236 for the fixed capital installed as of January 1, 1923. The estimated cost of the operative system, as shown by a report by H. A. Noble, one of the Commission's hydraulic engineers, which was submitted as an exhibit at the hearing, is \$17,275; and the depreciation annuity computed by the 6 per cent sinking fund method is \$262.

The maintenance and operation expenses for the year 1922 as reported by applicant totaled \$1,651, and the Commission's engineers submitted

an estimate of \$1,695 as a reasonable amount to be included in the annual charges for these expenditures for future operation of the system.

Revenues for the year 1922 were \$2,501, which is \$539 in excess of the estimated maintenance and operation expense and depreciation annuity set out above. This is equivalent to a return of 3.1 per cent upon the estimated original cost of \$17,275, or 3.5 per cent on the cost as shown by the utility's books, and it appears that a revision of the rate schedule is justified as well as the establishment of a meter rate.

The evidence shows that in 1922 there were about 140 active consumers. Meters have been installed for eleven of the larger users, but these consumers have been charged according to the flat rate schedule, there being no meter rate in effect.

The rate schedule set out in the accompanying Order has been assembled after a careful consideration of all the evidence regarding water use, rate schedules in effect, value of the property devoted to the public use, operating expense and other pertinent factors, and is designed to remove inequalities in the present rate schedule and to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity, and what is, under the circumstance, a reasonable return upon the fair value for rate-fixing purposes of the property devoted to the public use.

#### ORDER.

H. K. Sears, owner of the public utility known as Gerber Water Works, having applied to this Commission for an order authorizing an adjustment in the water rates, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully advised in the matter:

It is hereby found as a fact that the present rates charged by H. K. Sears, owner of Gerber Water Works, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged for water delivered to consumers in, and in the vicinity of, Gerber, Tehama County,

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order:

*It is hereby ordered*, that H. K. Sears, owner of Gerber Water Works, be and he is hereby directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered subsequent to August 1, 1923:

*Rate Schedule.*

## Monthly flat rates.

1. Residences and tenements of 5 rooms or less occupied by a single family-----	\$1 10	
For each additional room-----	10	
Additional for each flush toilet or bath tub-----	25	
2. For each private barn with not more than two horses or cows-----	50	
For each additional horse or cow-----	25	
3. Private boarding houses—additional to the residence rate for each roomer or boarder-----	10	
4. Irrigation of lawns, shrubbery, trees, garden, etc. chargeable for six consecutive months:		
For 2000 square feet or less, per 100 square feet-----	03	
From 2000 to 7000 square feet, per 100 square feet-----	02	
All over 7000 square feet, per 100 square feet-----	01	
5. Hotels and lodging houses:		
For public dining room-----	2 00	
For each bedroom with water tap-----	20	
For each bedroom without water tap-----	10	
For each private bath room-----	25	
6. For one public flush toilet in hotels, lodging houses or public places-----	75	
For each additional flush toilet-----	35	
7. For one public bath tub in hotels, lodging houses or bathing establishments-----	1 00	
For each additional public bath tub-----	50	
8. Public urinals in hotels, pool rooms or any public place, for each bowl where a drain is used-----	50	
With automatic trap flusher, each-----	75	
9. Suites with water tap utilized as offices, in upper-stories of buildings, each-----	50	
10. Livery stables and stock yards, average of six animals or less-----	3 00	
For each additional animal-----	20	
11. Barber shops, for single chair-----	1 00	
For each additional chair-----	50	
12. Public halls, clubs or lodge rooms-----	1 00	
13. Public garages, average 4 autos or less-----	2 00	
For each additional auto-----	35	
14. Soda fountains, soft drink places, and ice cream or lunch parlors either alone or in connection with other business-----	1 00	to \$ 2 50
15. Drug stores-----	1 40	
16. Meat markets, laundries, creameries, slaughter houses, bottling works, canning or packing houses, according to use of water-----	2 00	to 8 00
17. Blacksmith, wagon and machine shops-----	1 00	
18. Restaurants, chop houses or cafes, according to the use of water-----	2 00	to 6 00
19. Ice or cold storage plants either alone or in connection with other business, according to use of water-----	2 00	to 10 00
20. For small stores or business places not otherwise listed-----	75	
21. For large stores or business places not otherwise listed, according to use of water-----	1 00	to 2 25
22. Living rooms in connection with stores or places of business-----	50	
23. Additional charge for each bath tub or flush toilet in (10) to (20) inclusive except where for public use-----	20	
24. Water motors in any place, depending on use of water-----	75	to 4 00
25. Water for sprinkling of roads and streets, according to computed or measured quantity of water used, per 100 cubic feet-----	10	
26. Water for any purposes or establishments not hereinbefore specified charged for at meter rates-----		
27. Meters may be installed at the request of any consumer or at the option of the utility.		

## Metered use.

## 1. Monthly minimum payments for metered use:

For $\frac{1}{8}$ -inch meters	-----	\$1 25
For $\frac{3}{8}$ -inch meters	-----	2 00
For 1-inch meters	-----	3 00
For 1 $\frac{1}{2}$ -inch meters	-----	5 00
For 2-inch meters	-----	8 00

## 2. Monthly quantity rates

		Per 100 cubic feet
For use between 0 and 400 cubic feet	-----	\$0 31 $\frac{1}{2}$
For use between 400 and 2000 cubic feet	-----	20
For use over 2000 cubic feet	-----	10

*It is hereby further ordered, that H. K. Sears, owner of Gerber Water Works, be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules to become effective upon their acceptance by the Commission.*

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

## DECISION No. 12260.

IN THE MATTER OF THE APPLICATION OF EUCLID AVENUE WATER COMPANY FOR PERMISSION TO INCREASE RATES OF WATER OF SAID COMPANY.

Application No. 9031.

Decided June 25, 1923.

*Theodore F. Taylor*, for Applicant.

BY THE COMMISSION.

## OPINION.

Euclid Avenue Water Company, applicant herein, asks authority to increase its rates for water supplied to consumers in, and in the vicinity of South Pasadena, Los Angeles County. The application alleges in effect that the present schedule of rates does not yield a revenue sufficient to meet maintenance and operating expense, depreciation annuity and a fair return upon the investment.

A public hearing in this matter was held before Examiner Williams at Los Angeles. All of applicant's consumers were duly notified and given an opportunity to appear and be heard.

The Railroad Commission, in Decision No. 9995, dated January 17, 1922, established the rates at present in effect which are as follows:

*Irrigation Service.*

Per weir inch per hour, which is equivalent to 36 cubic feet-----\$0 0125

*Domestic Service.*

Monthly charge for 1000 cubic feet or less-----1 25  
All in excess of 1000 cubic feet per 100 cubic feet-----035

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report covering the results of a field investigation of the system and a study of the maintenance and operating expense and revenue of this utility. This report shows the estimated original cost of the system as of June 1, 1923, amounting to \$25,860, a depreciation annuity of \$494, and an estimate of a reasonable annual maintenance and operating expense amounting to \$3,917. These figures were not questioned at the hearing and no other report was submitted covering these items.

The total revenue received from the sale of water during the year 1922 amounted to \$4,878, which is \$467 in excess of the estimated reasonable maintenance and operating expense and depreciation annuity, and is equivalent to a return of 1.8 per cent upon the estimated original cost of the system. It therefore appears that authority to increase rates should be granted. The schedule of rates requested in the application and established in the following order will yield maintenance and operation expense, depreciation annuity and a reasonable return upon the investment.

#### ORDER.

Euclid Avenue Water Company, having applied to the Railroad Commission for authority to increase the rates charged for water supplied to consumers in, and in the vicinity of, South Pasadena, Los Angeles County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully advised in the matter:

It is hereby found as a fact that the rates now charged by Euclid Avenue Water Company are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that Euclid Avenue Water Company be and it is hereby directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered to consumers subsequent to August 1, 1923:

#### *Irrigation Service.*

Per weir inch per hour which is equivalent to 36 cubic feet.....\$0 015

#### *Domestic Service.*

Monthly charge for 800 cubic feet or less.....	1 25
From 800 cubic feet to 2000 cubic feet, per 100 cubic feet.....	08
All in excess of 2000 cubic feet per 100 cubic feet.....	0425

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

## DECISION No. 12261.

IN THE MATTER OF THE APPLICATION OF THE CITY WATER COMPANY OF BANNING, CALIFORNIA, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 9084.

Decided June 25, 1923.

*Frank L. Miller*, for Applicant.

BY THE COMMISSION.

## OPINION.

City Water Company of Banning, California, asks permission to issue and sell \$35,000 of bonds for the purpose of rebuilding part of its plant and increasing and improving its water supply.

The City Water Company of Banning, California, reports \$15,629.83 par value of stock outstanding. It has no bonded debt and only a nominal amount of current liabilities. It is of record that applicant owns 120 shares of stock of the Banning Water Company, a mutual company, and that it obtains its water supply from the Banning Water Company by virtue of such stock ownership. All of applicant's stockholders are owners of stock of the Banning Water Company. The testimony shows that the stock of the Banning Water Company is now selling at more than \$190 per share.

In Decision No. 9007, dated May 26, 1921, the Commission in fixing applicant's rates used as a rate base the sum of \$32,049 (Vol. 19, Opinions and Orders of the Railroad Commission of California, page 917). In that decision the Commission allowed \$10,800 for the 120 shares of Banning Water Company stock.

Applicant serves about 500 consumers. Its water is obtained from the irrigation mains and reservoirs of the Banning Water Company. At certain times of the year the water is more or less contaminated with dirt and debris. Applicant intends to install an eight-inch pipe from its present system to the lower well of the Banning Water Company, with the necessary equipment, so as to provide a purer and better supply of water throughout the entire year. In addition, applicant intends to install larger pipes and additional fire hydrants in the more populated area of the city of Banning. The cost of these improvements is estimated by applicant at \$35,195.82 and is segregated by applicant in its Exhibit "B" as follows:



## Materials :

5,000 feet 8" 16 g riveted pipe @ \$ .83	\$4,150 00
9,352 feet 8" 14 g riveted pipe @ .90	8,416 80
11,456 feet 4" 14 g riveted pipe @ .57	652 92
20 gate valves with companion flanges, bolts and gaskets	640 00
20 fittings for intersections, etc.	400 00
42 fire hydrants, pipe and gate type	1,360 00
400 saddles and pipe for resetting house connections on the rebuilt system	1,000 00
Minor details, use of money, superintendence, engineering, overhead	4,726 00

## Labor :

13,350 feet 8" haul and lay trench and backfill	4,672 50
10,000 feet 4" haul and lay trench and backfill	2,500 00
400 house connections-labor remaking	800 00
Total	\$35,195 82

The testimony clearly shows that the improvements, additions and betterments outlined in this application should be installed.

Applicant has not yet created a bonded indebtedness. It intends forthwith to take proper legal steps to create a bonded indebtedness and to issue \$35,000 of 7 per cent serial bonds to be dated October 1, 1923, and redeemable at 103 and accrued interest. Of the bonds \$1,000 face value are to mature October 1, 1928, and \$2,000 face value of bonds annually thereafter. It may be that the terms of the definitive bonds will vary from those now submitted to the Commission. The Commission at this time can issue only a preliminary order. The final order will be entered when applicant has submitted in satisfactory form a copy of its proposed deed of trust securing the payment of the bonds. The Commission will also in such final order determine the price at which applicant may sell its bonds.

**ORDER.**

City Water Company of Banning, California, having applied to the Railroad Commission for permission to issue \$35,000 of bonds, a public hearing having been held before Examiner Frankhauser, and the Commission being of the opinion that the money, property or labor is reasonably required by applicant; therefore

*It is hereby ordered*, that City Water Company of Banning, California, be and it is hereby authorized to issue \$35,000 of bonds for the purpose of paying for the extensions, additions, betterments and improvements described in Exhibit "B" filed in this proceeding, provided

That the authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$35; nor until the Commission by supplemental order has authorized applicant to execute a mortgage or

deed of trust to secure the payment of the bonds and has defined the terms and conditions under which such bonds may be sold.

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

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DECISION No. 12262.

IN THE MATTER OF THE JOINT APPLICATION OF THE EL SEGUNDO WATER COMPANY, AND THE CITY OF EL SEGUNDO, CALIFORNIA, FOR AN ORDER GRANTING PERMISSION FOR SAID COMPANY TO SELL AND FOR SAID CITY TO BUY ALL OF THE BUSINESS, PHYSICAL PROPERTIES, REAL ESTATE, DISTRIBUTING SYSTEM AND ASSETS OF THE SAID COMPANY.

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Application No. 9114.

Decided June 25, 1923.

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BY THE COMMISSION.

ORDER.

El Segundo Water Company, a corporation, having filed application and amended application for authority to transfer its entire public utility water system to the city of El Segundo, Los Angeles County, California, and upon the completion of the transfer to be relieved of its public utility obligations, and the city of El Segundo having joined in the application and the amendment thereto, and it appearing that this is not a matter in which a public hearing is necessary, and that the application should be granted;

*It is hereby ordered*, that El Segundo Water Company, a corporation, be and the same is hereby authorized to transfer its entire public utility water system, more particularly described in the application herein, to the city of El Segundo, Los Angeles County, California, upon the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been completed on or before December 31, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission by El Segundo Water Company, a corporation, within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which El Segundo Water Company, a corporation, actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this public utility property shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

*It is hereby further ordered*, that, upon the completion of the transfer herein authorized and full compliance with the foregoing conditions, El Segundo Water Company, a corporation, be and the same is hereby relieved of its public utility obligations.

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

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DECISION No. 12270.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

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Application No. 8568.

Decided June 25, 1923.

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Western States Gas and Electric Company in a supplemental petition filed in the above entitled matter on June 9, 1923, asks permission to use the proceeds received from the sale of \$103,500 of the preferred stock authorized by Decision No. 11579, dated February 3, 1923, to reimburse its treasury on account of sinking fund payments.

In Decision No. 11579 the Commission authorized Western States Gas and Electric Company to issue and sell, for cash, at not less than par, \$500,000 of its 7 per cent cumulative preferred stock. The order of the Commission permits the company to use an amount of the proceeds not exceeding 6 per cent of the par value of the stock sold to pay commissions, salaries, advertising and other expenses incidental to the sale of the stock. The remaining proceeds must be deposited with a bank or banks, or with a trust company or trust companies, and expended only when and for such purposes as the Commission may authorize in a supplemental order or orders.

The company now reports that since December 1, 1919, and prior to July 1, 1923, it has paid, or will pay, into its various sinking funds the sum of \$943,075, which amount it has used, or will use, to retire \$1,101,000 in bonds, consisting of \$68,000 face value of American River Electric Company bonds and \$1,033,000 of its first and refunding mortgage five per cent bonds.

The Commission heretofore has authorized applicant to use the proceeds from the sale of \$440,400 of preferred stock and \$242,457 of fifteen-year notes to refund sinking fund payments made since December 1, 1919. Deducting \$682,857, the sum of these two amounts, from the \$1,101,000 leaves a balance of \$418,143 of bonds which have not been refunded.

The Commission has given consideration to the request of applicant to use the proceeds from the sale of \$103,500 of stock to partially refund these sinking fund payments, and it believes this request should be granted as herein provided; therefore

*It is hereby ordered*, that Western States Gas and Electric Company be and it is hereby authorized to withdraw the proceeds from the sale of \$103,500 of the preferred stock authorized by Decision No. 11579, dated February 3, 1923, for the purpose of reimbursing its treasury on account of sinking fund payments since December 1, 1919, or to pay current indebtedness incurred in making such sinking fund payments.

*It is hereby further ordered*, that the order in Decision No. 11579, dated February 3, 1923, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-fifth day of June, 1923.

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DECISION No. 12275.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR PERMISSION TO CONSTRUCT AND MAINTAIN AT GRADE TRACKS ACROSS CERTAIN PUBLIC HIGHWAYS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ON APPLICANT'S ALHAMBRA-SAN GABRIEL LINE, IN CONNECTION WITH THE CONSTRUCTION OF ITS PROPOSED RAILROAD FROM A POINT IN ITS PRESENT RAILROAD LINE IN THE CITY OF SAN GABRIEL, NOW CONSTRUCTED TO SAN GABRIEL BOULEVARD AND RUNNING THENCE IN A GENERAL EASTERLY AND NORTHEASTERLY DIRECTION TO APPROXIMATELY GOLDEN WEST AVENUE IN THE SAID COUNTY OF LOS ANGELES.

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Application No. 8918.

Decided June 26, 1923.

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*Frank Karr*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Pacific Electric Railway asks first, for a certificate of public convenience and necessity for the construction of an extension of its electric railroad two miles easterly from the present terminus at San Gabriel of applicant's San Gabriel line, and second, for authority to construct this line at grade across various public roads intersected by the proposed line.

A public hearing was held on this application in Los Angeles, May 8, 1923, before Examiner Williams.

The territory to be traversed by the proposed extension is at present but sparsely populated and is devoted to agriculture. A considerable portion of this territory is now the property of the Burkhart Invest-

ment Company, which is subdividing for residential purposes, about 660 acres of land in this vicinity. The purpose of the proposed extension is to give electric interurban car service to this subdivision in order to facilitate its sale and development.

Applicant estimated that the line will cost approximately \$231,331, segregated as follows:

Cost of track, roadway, right of way, etc.....	\$102,670 00
Cost of substation and power lines.....	128,660 00
Total .....	\$231,331 00

The proposed expenditure for power facilities is largely for the purpose of relieving a power shortage on the existing Alhambra-San Gabriel and Pasadena lines and it appears that this improvement in power conditions will be required at an early date entirely irrespective of whether the proposed San Gabriel extension is built, although the detailed arrangements and location of such additional power facilities will depend upon whether they are to serve only the existing line or the proposed extension in addition. Of the remaining amount of \$102,670 the Burkhart Investment Company has agreed to donate

Cash .....	\$66,000 00
Right of way valued at.....	8,718 00
Station building, valued at.....	5,000 00
Total .....	\$79,718 00

This will leave approximately \$25,000 actual cash outlay on the part of the Pacific Electric, to be wholly and directly chargeable to the construction of this extension of two miles.

The applicant estimates that for the first year the proposed extension will bring an additional business of one hundred passengers per day or a total passenger revenue of \$10,000 per year. In addition, it is estimated that there will be a freight revenue of \$4,000 a year. It is further estimated that by the fifth year passenger revenue will be doubled, while it is not expected that the freight revenues will increase. The operating expenses of the extensions were estimated at \$7,000 per year, based on the operation of ten trains per day in each direction.

In view of the increasing demand for residential property within a reasonable distance from the city of Los Angeles, we are convinced that the future public convenience and necessity justify the construction of this line, particularly since the immediate property to be served is to be assessed with such a large proportion of its cost and the public served by the established lines of the applicant will not be burdened with a large investment upon which a small immediate return will be available.

It should be noted that the proposed real estate subdivision to be served consists of a tract containing about 660 acres, subdivided into approximately 1300 lots, so that there will be an average charge per lot

of less than \$50 to cover the donation of the Burkhart investment to the applicant for the establishment of this transportation service.

The proposed line, after crossing San Gabriel boulevard, will be located along what is now the center of Olive avenue, for a distance of approximately a mile. The line then traverses private property in a northeasterly direction to San Gabriel avenue and extends on to a point near its eastern terminus or the center of that street. A thirty-foot strip in each of these streets is to be abandoned and deeded to the railroad company as a private right of way, protected by curbs on each side. Additional property is to be deeded to the county to form roadways on each side of its private right of way, making both Holly avenue and San Gabriel avenue divided streets carrying traffic particularly to and on each side of the railroad. The line of railroad involved in this proceeding intersects thirteen public highways. Each of these will now be briefly discussed:

*Crossing No. 1, San Gabriel Boulevard*, by far the most important highway involved in this proceeding, is an important north and south county thoroughfare and at the point of crossing extends along the easterly boundary line of the city of San Gabriel. A fourteen-hour traffic count taken on Thursday, April 19, 1923, showed a total of 2519 vehicles and 181 pedestrians on this boulevard at the point of the proposed crossing. The traffic is substantially greater on a Sunday or holiday. San Gabriel boulevard has a total width of one hundred feet, of which approximately thirty feet along the center is improved with an oil macadam surface. The street is on a grade of about one and three-fourths per cent ascending to the north. The view is rather seriously obstructed at the point of proposed crossing. The present terminus of the San Gabriel line is immediately west of this thoroughfare, in Las Tunas avenue.

In view of the importance of this highway serious consideration should be given to the separation of grades of any railroad crossing of this boulevard. The territory east of the boulevard is approximately sixteen feet below the elevation of the road itself and approximately five hundred feet west of the boulevard there is a drainage channel over which both the present line of railroad and Las Tunas avenue is carried on a permanent concrete bridge.

Two plans for separating the grades at this point were considered. Plan "A" contemplates the carrying of the railroad underneath San Gabriel boulevard at an elevation of thirteen feet below the present grade of the highway and the raising of the highway twelve feet above the present elevation. The cost of this plan was estimated at a little over \$200,000. Plan "B" suggested for study by the Commission's engineers prior to the hearing is based upon the carrying of the railroad over the highway by depressing the highway approximately

twelve feet and raising the railroad approximately five feet, applicant's estimate as submitted at the hearing, being approximately \$125,000. The Commission's engineer, however, pointed out certain discrepancies in this estimate with a result that there has been subsequently filed by the applicant a revised estimate of this plan amounting to approximately \$83,000. None of these estimates include consequential damages to property.

Traffic on the railroad for the time being will probably not exceed twenty trains a day, most of which will be operated in single car units. The hazard of this railroad traffic crossing a 3000-vehicle highway at grade does not seem to justify an expenditure of \$83,000 in order to eliminate the crossing, particularly since the railroad in this location will probably never be operated at high speeds and since both east and west of San Gabriel boulevard the railroad is, in effect, laid in the center of a public street. On the other hand, if a grade crossing is constructed at this point it should be well protected. This protection should take the form of an automatic flagman.

*Crossing No. 2, Sixth street*, is not physically open for traffic at the point of crossing at this time.

*Crossing No. 3, Fifth street*, is of moderate importance. The view is obstructed on one corner, but in view of the relatively light traffic no special protection would appear to be necessary at this time.

*Crossing No. 4, First street*, is also of only moderate importance which does not extend north of the railroad, however, a crossing to the northerly roadway of Olive avenue is probably justified at this location. The view is entirely unobstructed.

*Crossing No. 5, Vista street*, is only two hundred feet east of First street and does not extend south of Olive avenue. Although authority should be given to construct the line across this street, it appears that an actual crossing for vehicular traffic is not necessary at both First street and Vista street.

*Crossing No. 6, Orange avenue*, is unimportant, extending only about two hundred and fifty feet south of Olive avenue. The view is unobstructed.

*Crossing No. 7, Muscatel avenue*, is of moderate importance extending one-half mile both north and south of Olive avenue. The view is unobstructed.

*Crossing No. 8, Rosemead avenue*, is also of moderate importance, extending for a considerable distance both north and south of the railroad. As yet this street has been graded but not paved. The view is unobstructed in all directions.

*Crossing No. 9, Manzanita avenue*, is of little importance. The view is unobstructed.

*Crossing No. 10, Encinita avenue*, is not physically open at the present time.

*Crossing No. 11, Live Oak avenue*, also is not physically open at the present time.

*Crossing No. 12, Sunset boulevard*, is a moderately important north and south road connecting Huntington drive and Broadway. The view is unobstructed, but traffic is of sufficient importance so that, should any obstruction to view be placed in the vicinity of this crossing, an automatic flagman should be provided for its protection.

*Crossing No. 13, San Gabriel avenue*, is not at present physically open, but will probably be improved concurrently with the construction of the railroad. The view is unobstructed in all directions. The railroad crosses only the northerly half of this street.

#### ORDER.

Pacific Electric Railway Company having made application for authority to construct an extension of its electric railway from a point at the easterly limits of San Gabriel for a distance of approximately two miles easterly in the county of Los Angeles, State of California, and at grade across certain public highways in said county of Los Angeles, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction and operation of an electric railroad from a point at the present terminus of the Pacific Electric track near the easterly limits of the city of San Gabriel, thence running in a generally easterly direction for a distance of approximately two miles in the county of Los Angeles; therefore

*It is hereby ordered*, that a certificate of public convenience and necessity be and it is hereby granted Pacific Electric Railway Company to construct its track in the location as shown on the map CE-6476 filed as Exhibit "A" in this proceeding.

*It is hereby further ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to construct one track at grade across the following highways in the county of Los Angeles, State of California:

San Gabriel boulevard,  
Fifth street,  
Vista street,  
Muscatel avenue,  
Manzanita avenue,  
Live Oak avenue,  
San Gabriel avenue,

Sixth street,  
First street,  
Orange avenue,  
Rosemead avenue,  
Encinita avenue,  
Sunset boulevard.



Said crossings to be constructed in the lines shown on the map CK-6476 filed as Exhibit "A" in this proceeding, subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings of San Gabriel boulevard, Fifth street, First street, Vista street, Orange avenue, Muscatel avenue, Rosemead avenue, Manzanita avenue, Sunset boulevard and San Gabriel avenue shall be constructed of a width and type of construction to conform to those portions of said streets now graded with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic. Said crossings of Sixth street, Encinita avenue and Live Oak avenue shall be so constructed that grades of approach not exceeding four (4) per cent will be feasible in the event that the construction of a roadway along said Sixth street, Encinita avenue and Live Oak avenue shall hereafter be authorized so that said crossings may be made safe for the passage thereover of vehicles and other road traffic.

(3) An automatic flagman shall be installed and maintained at the sole cost of applicant for the protection of Crossing No. 1, San Gabriel boulevard; said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Commission.

(4) This order is made upon the express condition that Sixth street, Encinita avenue and Live Oak avenue are not now actually constructed and open to travel at the respective points of crossing, and said order shall not be deemed an authorization for the construction of an opening of said streets to public use across said railroad tracks.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(6) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three days after the making thereof.

Dated at San Francisco, California, this twenty-sixth day of June, 1923.

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DECISION No. 12277.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY, WILLIAM G. HENSHAW AND ED FLETCHER, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CUYAMACA WATER COMPANY, FOR AN ORDER AUTHORIZING AND ESTABLISHING A SURCHARGE TO PAY FOR THE COST OF OPERATION OF PUMPING FROM UNDERGROUND RESERVOIRS.

Application No. 6767.

IN THE MATTER OF THE APPLICATION OF WILLIAM G. HENSHAW AND ED FLETCHER, SURVIVING CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE CUYAMACA WATER COMPANY, FOR AN ORDER AUTHORIZING AND PERMITTING AN INCREASE IN THE RENTALS, TOLLS AND CHARGES FOR WATER FURNISHED BY THEM AND SERVICE RENDERED BY THEM IN FURNISHING WATER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

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Application No. 8451.

Decided June 26, 1923.

RATES—WATER—SURCHARGE.—Rates now in effect held to be reasonable, and are ordered continued. Those portions of Decision No. 9677 ordering impounded moneys collected under a surcharge of one cent per 100 cubic feet of water used, are vacated.

*Crouch and Sanders*, by *C. C. Crouch*, for Applicant.

*J. W. Williams*, for the City of San Diego.

*Jesse George and Clarence S. Preston*, for John C. Brewer et al.

*Arthur G. French*, City Attorney, for the City of East-San Diego.

*E. E. Hendy*, for the Assembly of Normal Heights and for the citizens of Normal Heights and Kensington Park Districts.

*Haines and Haines*, for Lemon Grove Mutual Water Company and for J. M. C. Warren of Helix Mutual Water Company.

*George Russell and O. W. Cotton*, for Fairmount Water Company.

*A. N. Cook*, for Outlook Terrace Mutual Water Company.

*N. Tokuno*, for Union Fruit Company.

*P. S. Thatcher*, City Attorney, for City of El Cajon.

SHORE, *Commissioner*.

OPINION.

In the above entitled Application No. 6767 (filed April 25, 1921), the Cuyamaca Water Company requested authority to collect a surcharge of 2½ cents per 100 cubic feet of water to cover the cost of operating its certain pumping plants designated respectively as the La Mesa booster and the El Monte pumping plants. The Commission denied this application by its Decision No. 9454, dated September 1, 1921, and the company on September 16, 1921, filed an application for rehearing, which was granted. A further hearing was held, and

the Commission, by its Decision No. 9677, dated October 29, 1921, established new rates which in effect were a flat increase of 1 cent per 100 cubic feet on all water sold. Such additional rates were ordered impounded in a separate fund.

A petition requesting the reopening of the matter, signed by forty-eight of the flume line consumers, was filed on October 21, 1921. In this petition it was alleged that consumers had not been notified in time to prepare for the previous hearing and that the company had inflated its expense account. The request was made that the company's books be examined by an expert accountant selected by petitioners and that thereafter the proceeding be brought to a hearing. This the Commission agreed to do, the accountant representing petitioners to work with an accountant employed by the Commission. When the Commission's auditors began work on the company's books, however, these petitioning consumers failed to take advantage of the opportunity, and the Commission's expert completed his audit alone, and made his report on May 15, 1922, copies being served upon all parties.

Subsequently, in Application No. 8451 (filed on November 27, 1922), the company asked for an order establishing permanent rates which would return an amount equivalent to the increase in its rates fixed by said Decision No. 9677. By stipulation the two matters were consolidated and public hearings thereon were held at San Diego. Briefs have been filed, the matters have been submitted, and the Commission is now fully informed in the matter.

Evidence was submitted by the Commission's engineer as to the expense of operating the El Monte and La Mesa booster pumping plants and also as to the amount of money collected by the company due to the establishment of the "surcharge" rates by Decision No. 9677. It was shown by this evidence that the pumping expense incurred in 1921 (the only season in which pumping was necessary) was more than \$1,000 greater than the company's revenues from the total "surcharge" collected from December 1, 1921, when it became effective, until December 31, 1922. The flume line consumers contended that they had paid more than their share of the increase, but their contention was based on certain tabulations which also included the amount paid by the Lemon Grove Mutual Water Company, whose service connection is located on the company's pipe lines a considerable distance below the end of the flume. These computations are, therefore, inaccurate to that extent.

The reports of T. G. Hughes and George R. Kibbe, this Commission's accountants, show that the total capital expenditure of the company from June 1, 1910, to December 31, 1922, was \$847,944. M. E. Ready, one of the Commission's hydraulic engineers, submitted

a report which recommended as reasonable a rate base amounting to \$994,972. This figure included simple interest at 8 per cent on capital expenditures from June 1, 1910, to June 30, 1915, which amounts to \$120,366 and the sum of \$25,000 to cover reasonable deficits in maintenance and operation expense over the same period. This method was the same as was used by the Commission in establishing rates for this utility in Decision No. 4058, dated January 25, 1917 (12 C. R. C. 367), and again in Decision No. 8145, dated September 24, 1920 (18 C. R. C. 897).

In Decision No. 563, dated March 28, 1913 (2 C. R. C. 464), often termed the "Eshleman Decision," this Commission ordered the company to replace its wooden flume. Later the Commission granted the company permission to line the said flume with asphaltic roofing material instead of rebuilding it, believing that this change would benefit the consumers through an increased and more dependable supply at less expense. In practically every proceeding concerning this company since the lining of the flume, it has been contended by some of the consumers that the company had not complied with the Commission's order regarding rebuilding the flume; that it was a mistake to allow the company to line the flume; that the cost of maintenance of the wooden flume has been exorbitant, and that if the flume had been replaced, the consumers would not have had to pay so much for their water.

The reports of the Commission's auditors show that the total expenditure on the flume, including original cost, subsequent capital expenditures and operating expense, from June 1, 1910, to December 31, 1922, was \$488,523, while the reports of the Commission's engineers indicates that interest on the original cost of a flume of permanent construction together with the operating cost thereof over the same period of time would have amounted to \$956,333, or practically double the amount actually expended on the wooden flume. The advantage to the consumers resulting from the Commission's action in thus allowing the continued use of the wooden flume could with difficulty be more conclusively demonstrated.

Protestants also contend that the so-called "Murray Dam" of this company is located below their lands and is of no benefit to them and that, therefore, its cost should be excluded from the rate base which is used in establishing rates for service to consumers located above the dam. At first glance this may appear to be the case, but the Murray dam is of direct benefit to them even though they do not receive any of the water. This reservoir is filled during the winter when the water would otherwise run to waste and is used during the summer to supply all the consumers in the low service area, who, if it were not for the

Murray dam, would have to get their supply from Cuyamaca Lake and the natural flow in the San Diego River at the diversion dam, thereby reducing the amount available for the consumers along the flume and in the high service area.

The Lemon Grove Mutual Water Company asked that a new spread of rates be made and introduced evidence regarding its claim that it is entitled to a greater differential between the rate it pays and the rates paid by other consumers on the Cuyamaca system.

No other evidence regarding the spread of rates was presented, and in view of the absence of general testimony regarding this subject, and after a careful consideration of this claim, we are of the opinion that a modification in the general spread of rates is not justified.

The evidence presented by the auditors of the Commission (Commission's Exhibits 2 and 3) showed that the total net revenue of the Cuyamaca Company before deduction for depreciation from June 1, 1910, when the property was purchased by the present owners, to December 31, 1922, was \$168,942, or an average of but \$13,515 per year available for depreciation and return upon an actual cash investment amounting, on December 31, 1922, to approximately \$850,000.

During the years from 1915 to 1919 the actual results of operation were shown to have been as follows: (Commission's Exhibit 2-A, Application 4515.)

Year	Profit or loss	Per cent of return on investment
1915 (July 1-Dec. 31)	\$5,998 (loss)	0
1916	27,067	3.82
1917	12,855 (loss)	0
1918	6,986	0.87
1919 (Jan. 1-Sept. 30)	13,163	1.49

The Commission's engineer estimated the present normal annual maintenance and operation expense for the entire system to be \$77,105, and the proper depreciation annuity on the 6 per cent sinking fund basis to be \$24,125, making a total of \$101,230. No other estimates of these items were submitted. The actual revenues of the company during the years 1920, 1921, and 1922 were respectively, \$76,216, \$173,347, and \$116,341. It thus appears that during 1920 the company suffered a loss of \$25,014; that in 1921 it obtained a profit of \$72,117, and in 1922 a profit of \$15,110, or a return over and above expenses of 0 per cent in 1920, 7.2 per cent in 1921, and 1.5 per cent in 1922. These figures demonstrate that this utility's revenues have not been exorbitant. Indeed, with the possible single exception of 1921, this company has failed to earn a reasonable rate of return upon the actual capital invested, and during that year sales in the amount of \$78,869 were made to the city of San Diego. In the past such sales have been intermittent, and can not be depended upon in the future.

After carefully considering all the evidence, it is apparent that the rates as established in Decision No. 9677 in application 6767 are not unreasonable and should be continued in effect.

I submit the following form of order:

**ORDER.**

James A. Murray, William G. Henshaw and Ed Fletcher, copartners, doing business under the firm name and style of the Cuyamaca Water Company, having made application for authority to add a surcharge to its rates to cover the expense of pumping (Application No. 6767), and William G. Henshaw and Ed Fletcher, surviving copartners of the said copartnership, having made application for authority to increase the rentals, tolls and charges for water (Application No. 8451), public hearings having been held thereon, briefs having been filed, the matters having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by the Cuyamaca Water Company as established by the Commission in Decision No. 9677 in Application No. 6767, are just and reasonable rates to be charged for water delivered to its consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that the Cuyamaca Water Company be and the same is hereby authorized and directed to charge for water delivered to consumers the rates now on file with, and established by this Commission in its Decision No. 9677, until further order of the Commission.

*It is hereby further ordered*, that those sections in Decision No. 9677 reading as follows: "That all moneys collected hereunder in excess of the rates heretofore authorized shall be impounded and held intact by applicant, and the excess, if any, of the rates herein fixed above the rates to be hereafter fixed after further orders herein, shall be refunded to the consumers;" and, "That applicant shall keep an exact account of all moneys collected hereunder from each consumer in excess of the rates hereinbefore established," be and the same are hereby vacated.

The effective date of this order is hereby fixed and designated as the first day of July, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of June, 1923.

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DECISION No. 12278.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON RELATION OF THE DEPARTMENT OF PUBLIC WORKS, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY CROSSING UNDER THE TRACKS OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION, NEAR ALTO, MARIN COUNTY, CALIFORNIA.

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Application No. 7829.

Decided June 27, 1923.

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GRADE CROSSING—SEPARATION OF GRADES—OVERHEAD STRUCTURE ALTERED.—Northwestern Pacific Railroad Company ordered to reconstruct overhead crossing over state highway to give fourteen feet vertical clearance and twenty-four feet horizontal clearance. State Highway Commission directed to pay to the Northwestern Pacific Railroad Company not to exceed \$2,000 of the cost of such alteration.

*Paul F. Fratessa*, for Applicant.

*R. W. Palmer*, for Northwestern Pacific Railroad Company.

BY THE COMMISSION.

OPINION.

In this proceeding applicant asks for an order of the Commission altering an existing undergrade crossing of the state highway and the Northwestern Pacific Railroad, hereinafter referred to as railroad, near Alto, Marin County, and dividing the cost thereof.

Public hearings were held in San Francisco, March 12, 1923, before Examiner Eddy and May 26, 1923, before Examiner Geary.

While the application is for an order authorizing construction of the state highway under the tracks of the railroad, the evidence indicates that at the point of crossing at the present time the railroad is carried over the state highway on a timber trestle so that the issue is as above stated, rather than the authorization of a new undergrade crossing. This trestle is about thirty feet high at the crossing and the road is carried beneath the trestle between two bents so that there is a horizontal clearance of approximately fifteen feet. The applicant desires to substitute for that part of the trestle over the new highway, a steel structure with a vertical clearance of fifteen feet and a horizontal clearance of twenty-four feet to accommodate a roadway of greater width than the existing road. It was shown that at present the existing opening is inadequate for the state highway.

Applicant's estimate of the cost of the structure proposed was \$9,600 and it stated that it had negotiated with the railroad in June, 1922, on the following proposed division of cost:

Three-eighths to the Northwestern Pacific Railroad or-----	\$3,600 00
Three-eighths to Marin County, or-----	3,600 00
One-quarter to State, or-----	2,400 00
Total -----	\$9,600 00

Upon this suggested division the railroad is opposed to paying anything, but the board of supervisors of Marin County agreed to pay the proportion set forth above as chargeable to the county. The railroad proposed that instead of constructing a steel structure, as proposed by applicant, that the existing timber structure be altered to provide the clearances required. After some discussion by the engineers of applicant, the railroad and the Commission, the first hearing adjourned with the understanding that they would endeavor to form some agreement as to the most satisfactory type of new structure and present a report to the Commission, together with an estimate of the cost.

Following adjournment the Commission received a copy of a letter written by the railroad to the applicant suggesting that the existing timber structure be altered to provide the necessary clearance, as above indicated, and that if the applicant would agree to bear the cost, not to exceed two thousand dollars, the railroad would relieve the applicant of further expense in connection with this existing structure. At the second hearing this understanding was verified and it was agreed between the applicant and the railroad that if the applicant were to pay to the railroad the cost of reconstructing the trestle to provide a twenty-four foot horizontal clearance and fourteen foot vertical clearance, such cost not to exceed two thousand dollars, the railroad would make the change and relieve the applicant of further expense of any kind at this crossing. Applicant's Exhibit 9 is a form of agreement, in writing, of this understanding.

If the existing structure is altered in conformity with this form of agreement in lieu of constructing a steel structure originally proposed by applicant, applicant will be permanently provided with an opening with sufficient and proper clearance at a cost not to exceed two thousand dollars, which probably is less than its proportion of substituting the steel structure would amount to. There appears no objection to an order based upon these circumstances.

Applicant stated that it is desirous of changing the structure by September 1, 1923, while the railroad sought to have the date of completion made thirty days later. Completion by September 1 appears reasonable and should be made a part of the order.



## ORDER.

The people of the State of California on relation of the Department of Public Works having made application for an order authorizing the alteration of an existing overgrade crossing and dividing the cost thereof, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that Northwestern Pacific Railroad Company be and it is hereby directed to alter the existing timber trestle at the location and crossing involved in this proceeding to provide a vertical clearance of not less than fourteen (14) feet and a horizontal clearance of not less than twenty-four (24) feet, before September 1, 1923, said horizontal clearance to be symmetrical about the center line of the state highway as shown on Applicant's Exhibit "A." Said Northwestern Pacific Railroad shall maintain at its own cost and expense minimum clearances of twenty-four (24) feet horizontal and fourteen (14) feet vertical on said state highway in any change or reconstruction of said existing structure rebuilt as provided above and will pay all costs for any such change or reconstruction that may become necessary in the future.

*It is hereby further ordered*, that the applicant herein shall, upon the completion of said alterations, pay to the railroad the cost of said alterations, but not to exceed two thousand dollars. It is understood that the payment so made relieves applicant of any further expense in connection with the existing undergrade crossing at this location.

The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective five (5) days after the making thereof.

Dated at San Francisco, California, this twenty-seventh day of June, 1923.

## DECISION No. 12279.

IN THE MATTER OF THE APPLICATION OF EXCELSIOR WATER AND POWER COMPANY FOR AN ORDER FIXING REASONABLE AND NONDISCRIMINATORY RATES FOR WATER FURNISHED TWO CONSUMERS CLAIMING RIGHT TO RECEIVE FREE WATER SERVICE UNDER SPECIAL AGREEMENTS.

Application No. 8372.

Decided June 27, 1923.

RATES—WATER—FREE WATER SERVICE—SPECIAL AGREEMENTS.—Free water service to two consumers under special agreements in payment for rights of way acquired many years ago held discriminatory. Non-discriminatory rates for such consumers ordered. Adjudication of claims for such rights of way held not within the jurisdiction of the Commission.

*Devlin and Brookman*, by *Douglas Brookman*, for Applicant.  
*J. E. Ebert*, for Hugh Toland, Protestant  
*W. P. Rich*, for Thomas Mooney, Protestant.

BY THE COMMISSION.

## OPINION.

This matter was initiated by an application on the part of Excelsior Water and Power Company, a public utility, furnishing water to lands in Nevada and Yuba counties, alleging that certain of its consumers had refused to pay the rates established by this Commission in its Decision No. 9986, dated January 12, 1922 (Application No. 6427). The application further alleged that these consumers claimed to be entitled to free water service under certain contracts made many years ago by applicant's predecessors. Applicant further alleges that such service is noncompensatory and amounts to an unjust and unreasonable discrimination against its other consumers.

A public hearing upon this matter was held at Marysville before Examiner Eddy on January 19, 1923, notice of said hearing having been sent to the consumers named in said application. At this hearing it appeared that the company had placed in force the water rates fixed by this Commission in its said Decision No. 9986, and it further appeared that the contracts mentioned in the complaint had been made many years ago by the predecessors of applicant, granting free water service in return for rights of way across the lands of these consumers. In the case of Thomas Mooney, there was no written agreement but the testimony showed that there had been an understanding that he should have water and that he or his predecessors had actually obtained free water sufficient to irrigate ten or twelve acres since 1880. In the case of Hugh Toland, the testimony showed that the contract in question was made in 1888 by the said Hugh Toland's predecessors and that approximately ten acres had been irrigated with free water since that time. Water for acreage in excess of this ten acres has been paid for at the regular rates.

A copy of the agreement entered into between the predecessors of Hugh Toland and applicant was placed in evidence as predecessors Exhibit No. 1. It is dated May 31, 1888, and declares that whereas the water company is desirous of continuing the use of certain rights of way over the premises of Toland's predecessors, free water for ten acres of land will be supplied "during all the time that said rights of way are enjoyed by the party of the second part."

This Commission has frequently had under consideration cases in which free service was supplied or agreed to be supplied by public utilities in return for rights of way or other consideration. There can be no question but that such "free service" to some patrons is in its final analysis, service which the other patrons of the utility must pay for in rates, and the position of this Commission has always been that such arrangements are unfair, discriminatory and economically unsound.

In the application of Emma H. Rose et al., Application No. 5713, Decision No. 9244, dated July 16, 1921 (20 Railroad Commission Reports 266, 268), we said:

From the evidence, some fourteen consumers have been supplied free service of water in consideration of various right of way agreements and certain other privileges granted applicants. This amounts to a preferential and discriminatory rate granted by the utility to these few consumers against the others on the system, which practice this commission has found to be unfair, and its policy has been to eliminate such preferential rate and services. Where such a condition exists, the discriminatory rates should be discontinued and all classes of consumers should be charged alike. If there remains any right of compensation in these particular cases, it is not for this commission to adjudicate the matter.

This declaration of policy is, we think, consonant with proper principles of regulation and our order in the present matter will therefore require this applicant to cease free service of water to these consumers. As above stated, "if there remains any right of compensation in these particular cases, it is not for this Commission to adjudicate the matter."

#### ORDER.

Applicant, Excelsior Water and Power Company, having alleged that it is rendering free water service to certain consumers under the provisions of contracts made in consideration of rights of way or other privileges granted by applicant's predecessors; and that such service is noncompensatory and amounts to an unjust and unreasonable discrimination against other consumers of applicant; a public hearing having been held and the matter having been submitted, it is hereby found as a fact that said free service of water constitutes an unfair and unreasonable discrimination against other consumers of applicant; and, therefore

*It is hereby ordered,* that Excelsior Water and Power Company charge Thomas Mooney and Hugh Toland the rates fixed by this Com-

mission in its Decision No. 9986 for all water supplied by applicant to the said Thomas Mooney and the said Hugh Toland.

Dated at San Francisco, California, this twenty-seventh day of June, 1923.

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DECISION No. 12280.

IN THE MATTER OF THE APPLICATION OF SOUTH PARK WATER COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 8978.

Decided June 27, 1923.

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*James L. Patten*, for Applicant.

BY THE COMMISSION.

OPINION.

South Park Water Company, applicant herein, asks authority to operate a public utility water plant and to distribute and sell water for domestic purposes to approximately 1000 lots within the county of Los Angeles and more particularly described as follows:

Tract Number 3287, Los Angeles County  
Tract Number 3598, Los Angeles County  
Tract Number 3754, Los Angeles County  
Tract Number 4449, Los Angeles County  
Tract Number 4897, Los Angeles County  
Tract Number 5745, Los Angeles County

A public hearing was held at Los Angeles before Examiner Williams. All interested parties were duly notified and given an opportunity to appear and be heard.

The testimony shows that the pumping plant was originally installed to supply water for irrigation purposes to a large tract of land including the above described territory, portions of the original tract have been sold without obligations to supply water, and applicant has now subdivided the remaining territory and installed a domestic water system to aid in the sale of lots.

The water supply is obtained from a deep well and elevated fifty feet above ground into a 50,000 gallon storage tank, from which it is distributed to the point of use. There is no other water utility operating in this territory and no one appeared to contest the granting of the application. The rates requested in the application have been in effect for some time and are reasonable compared to those of other utilities operating in the immediate vicinity and under similar conditions.

It therefore appears that the application should be granted.

# ORDER.

A public hearing having been held on the above entitled application, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that South Park Water Company operate a water system for the purpose of supplying water for domestic purposes in the tracts heretofore described in accordance with the terms and conditions of franchise No. 563, granted by county of Los Angeles July 7, 1919, and

*It is hereby ordered*, that South Park Water Company be and it is hereby directed to file with this Commission within twenty (20) days from the date hereof the following schedule of rates to be charged for all water delivered after August 1, 1923:

## *Domestic Meter Rate.*

Minimum charge—

$\frac{5}{8}$ -inch meter .....	\$0 50
1-inch meter .....	1 00

## *Monthly Meter Rate.*

0 to 3000 cubic feet, per 100 cubic feet .....	\$0 07
All in excess of 3000 cubic feet, per 100 cubic feet .....	05

NOTE—Domestic service includes water for household use, for sprinkling lawns, gardens, etc., and all purposes where served by outlets of  $\frac{3}{4}$ -inch diameter and smaller.

## *Irrigation Use.*

Per 100 cubic feet .....	\$0 03
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NOTE—Irrigation water may be served through a 1-inch or 2-inch outlet.

## *Additional Meter Service Charge.*

For 1-inch meter or smaller .....	\$0 25
For meters larger than 1-inch .....	50

*It is hereby further ordered*, that South Park Water Company be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-seventh day of June, 1923.

## DECISION No. 12281.

IN THE MATTER OF THE APPLICATION OF W. G. BENTLEY, FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE TO SELL WATER.

Application No. 9039.

Decided June 27, 1923.

*Tanner, Odell and Taft*, by *S. W. Odell*, for Applicant.

BY THE COMMISSION.

## OPINION.

A public hearing was held before Examiner Williams at Los Angeles, in the above entitled proceeding in which W. G. Bentley asks authority to distribute and sell water for domestic purposes to the residents of a portion of lots 162 and 163 of the Lankershim Ranch and Water Company, as shown on licensed surveyor's map in book 13, page 16, of Record of Surveys, Los Angeles County.

The testimony shows that applicant and others have subdivided the above described area into approximately 230 lots; that applicant has constructed a plant to furnish a water supply to the lots and aid in their sale; and that applicant now desires to operate the water system as a public utility. It was stipulated that the Commission might establish a schedule of rates comparable with the rates charged by other utilities operating in the vicinity and under similar conditions.

No one appeared to protest the granting of the application and there is no other public utility supplying water in this territory. It therefore appears that the application should be granted.

## ORDER.

A public hearing having been held on the above entitled application, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that W. G. Bentley operate a water system for the purpose of supplying water for domestic purposes in the tract of land described as being a portion of lots 162 and 163 of the Lankershim Ranch Land and Water Company, as shown in licensed surveyor's map in book 13, page 16, of the Record of Surveys of Los Angeles County;

*It is hereby ordered*, that W. G. Bentley be and is hereby directed to file with this Commission, within twenty (20) days from the date hereof, the following schedule of rates to be charged for all water delivered to consumers after July 31, 1923:

*Monthly Flat Rate.*

For residence of five rooms or less	\$1 00
For each additional room over five	10
For each bath tub	25
For each toilet	25
For each garage and one automobile	25
For each additional automobile	15
For each barn with not more than one horse or cow	15
Sprinkling or irrigating lawns or gardens, for each month during which water is used, per 100 square feet irrigated	05
Soda fountains either alone or in connection with other business	1 50
Monthly minimum flat rate	1 50
All other use to be charged for at meter rates.	

NOTE—Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility the entire cost shall be borne by the utility. If installed at the request of the consumer the cost of meter and installation thereof shall be advanced by the consumer to the utility and the money so advanced shall be refunded to the depositor as credits on monthly bills for water furnished at the rate of thirty per cent of the total amount of such monthly bills.

*Monthly Meter Rates.*

500 cubic feet or less	\$1 25
500 to 1000 cubic feet, per 100 cubic feet	20
All in excess of 1000 cubic feet, per 100 cubic feet	15

*Monthly Minimum Charge*

$\frac{3}{4}$ -inch meter	\$ 1 25
$\frac{1}{2}$ -inch meter	2 15
1-inch meter	3 30
1 $\frac{1}{2}$ -inch meter	6 25
2-inch meter	10 00

*It is hereby further ordered, that W. G. Bentley be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.*

Dated at San Francisco, California, this twenty-seventh day of June, 1923.

## DECISION No. 12283.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES, REGULATIONS AND PRACTICES AND INTO THE WATER SUPPLY OF THE WEST ANAHEIM WATER COMPANY, ORANGE COUNTY, CALIFORNIA.

Case No. 1765.

Decided June 27, 1923.

WATER SERVICE—MUTUAL COMPANY—PUBLIC UTILITY.—West Anaheim Water Company, a mutual corporation, having assumed service to nonshareholders, is found to be a public utility water system; that it has not reached the limit of its capacity to supply water, and that it can supply additional consumers without injury to the service to its other consumers.

BY THE COMMISSION.

## OPINION.

This proceeding was initiated by an order on the Commission's own motion to investigate the adequacy of the water supply of the West Anaheim Water Company, and to determine whether new consumers could reasonably be served without withdrawing the supply in whole or in part from those already served. There is incidentally involved the determination of the public utility status of the company and its power to issue stock to its consumers.

The West Anaheim Water Company was incorporated in 1907, and began its operations as a mutual water company serving water only to its stockholders at cost. In the year 1914, however, the company served a small amount of water to four persons who were not stockholders. In 1915 it served two nonstockholders, in 1916 one, and in 1917 and thereafter until 1920 it served from eight to thirteen nonstockholders. In 1921 the company concluded to issue additional stock to all outside consumers so that the company would once more be on a basis of a strictly mutual company.

This action led to the filing of an informal complaint with this Commission by certain minority stockholders who claimed that the company in serving outsiders had become a public utility, and, therefore, could not issue stock without first obtaining authorization from the Railroad Commission pursuant to section 52 of the Public Utilities Act. Further informal complaints alleged that the supply of water available to the company was inadequate, and that the taking on of additional consumers would result in withdrawing the supply in whole or in part from those who were already being supplied. Because of these complaints the Commission initiated this proceeding.

Chapter 80, Statutes 1913, contains the following provisions:

Sec. 2. Whenever any private corporation or association is organized for the purpose solely of delivering water to its stockholders or members at cost, and delivers water to no one except its stockholders or members at cost, such private



corporation or association is not a public utility, and is not subject to the jurisdiction, control or regulation of the railroad commission of the State of California.

Sec. 3. Whenever any private corporation or association organized for the purpose of delivering water solely to its stockholders or members at cost does deliver water to others than its stockholders or members for compensation, such private corporation or association becomes a public utility and subject to the terms of the public utilities act and the jurisdiction, control and regulation of the railroad commission of the State of California.

Aside from this statutory enactment, it is a settled proposition of law that a so-called mutual water company which serves only its stockholders at cost is not a public utility. (*McFadden vs. Board of Supervisors*, 74 Cal. 571; *Hildreth vs. Montecito Creek Water Co.*, 139 Cal. 22; *Barton vs. Riverside Water Co.*, 155 Cal. 509.) It has been so held for the reason that the users of water in thus forming a corporation to serve water to themselves are in effect simply using a convenient form of legal machinery to provide for the service of the water to themselves from their own water supply. Service of water to oneself is not a sale or delivery "to the public or any portion thereof" within the definition of a public utility as contained in section 2 of the Public Utilities Act; nor is it a dedication of property to public use, nor a holding forth of a service to the public within the scope of the general principles of the Public Utilities Law.

The West Anaheim Water Company, therefore, in its inception was engaged in a private enterprise, and the water which it supplied to its stockholders was the private property of such stockholders.

In the absence of any evidence of intention on the part of the stockholders to convert their private use of water into a public use, we do not believe that the serving of a surplus supply to outsiders would, under the provisions of section 3 of the statute above quoted, make the company a public utility except as to such surplus service. We believe it is clear, however, from facts shown, that the company did serve water as a public utility to nonstockholders subsequently to 1913. It is in evidence that between 1917 and 1921 it served twenty-four different persons who were nonstockholders, the greatest number in any one year being in 1919 when it served thirteen. Having, therefore, become a public utility as to such surplus service, the company is amenable to the regulatory provisions of the Public Utilities Act in all respects, and is required to obtain the authorization of the Railroad Commission for the issuance of any stock or securities. If the company desires to terminate its public utility activities and to resume its status as a strictly mutual company, it could readily do so by seeking and obtaining from the Railroad Commission an authorization to abandon its public utility service. This could be done upon a proper showing that its public utility consumers were supplied by other means.

On the question of adequacy of water supply, the evidence shows that the water level of the underground water from which the company obtains its entire supply by pumping has receded at the rate of about two feet a year for the last ten years. This has involved additional pumping expense and the necessity of drilling new wells. It appears, however, that an adequate supply has at all times been maintained, and that there is no threatened shortage by reason of the taking on of additional consumers. It further appears, as has already been indicated, that the company is not asking to extend its public utility service, but proposes to resume its status as a mutual company. We conclude, therefore, that it is unnecessary in this proceeding to make a formal order relative to the taking on of additional consumers for public utility service.

#### ORDER.

This proceeding having been instituted on the Commission's own motion for the purpose of determining whether the West Anaheim Water Company has reached the limit of its capacity to supply water; an order having been issued directing the said West Anaheim Water Company to appear and show cause why this Commission should not order and require that the company do not furnish water to any new or additional consumers until permitted to do so by order of this Commission; public hearing having been held, evidence received, and the matter submitted, the Commission hereby finds:

That the West Anaheim Water Company has been operating as a public utility in the sale and delivery of water to consumers other than stockholders; that it does not propose or intend to extend such service to new or additional consumers; that it has not reached the limit of its capacity to supply water, and that further consumers of water can be supplied by it without injuriously withdrawing the supply wholly or in part from those who have heretofore been supplied by such company.

Now, therefore, good cause appearing;

*It is hereby ordered*, that the order to show cause issued herein on the twenty-third day of May, 1922, be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of June, 1923.

## DECISION No. 12289.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO MERGE OR CONSOLIDATE ITS PLANT AND SYSTEM WITH THAT OF DOUGLAS COUNTY LIGHT AND WATER COMPANY

Application No. 9121.

Decided June 28, 1923.

*Morrison, Dunne and Brobeck, by H. H. Phleger, for Applicant.*

BY THE COMMISSION.

## OPINION.

The Railroad Commission is asked to make an order authorizing The California-Oregon Power Company to merge or consolidate its plant or system with that of Douglas County Light and Water Company.

A public hearing was had on this application before Examiner Fankhauser.

The Douglas County Light and Water Company was organized in June, 1912. All of its properties are located in the State of Oregon. The California-Oregon Power Company was organized under the laws of California and owns and operates public utility properties situate in both California and Oregon. Section 51 (a) of the Public Utilities Act provides, among other things, that no electrical or water corporation may merge or consolidate its plant or system, or franchises or permits, or any part thereof, with any other public utility, without first having secured from the Commission an order authorizing it so to do. The above entitled application was filed because of such provision of the Public Utilities Act.

The properties of Douglas County Light and Water Company consist of franchises, water rights, real estate, a small hydro-electric generating plant, a small steam electric generating plant, electric transmission and distribution lines and facilities and water pumping equipment, water mains and appurtenances suitable for the distribution of water. The company sells electricity in the cities of Drain, Oakland, Sutherlin, Yoncalla, Winchester, Roseburg and the vicinities thereof, all in Douglas County, Oregon. It sells water in Roseburg and vicinity.

It is of record that the Public Utilities Commission of Oregon by its Order No. 615 fixed both the electric and water rates of Douglas County Light and Water Company. In so doing, it used a rate base as of January 1, 1920, for the electric properties in the amount of \$306,969 and a rate base for the water properties in the amount of \$250,767, the total rate base being \$557,736. Applicant estimates that since January 1, 1920, the net additions to capital account have been about \$35,000, which, added to the \$557,736, makes a total of \$592,736.

These figures include only operative properties. The nonoperative properties which applicant will acquire are estimated by applicant's engineers to have a value of about \$17,100.

For 1922 the Douglas County Light and Water Company reports a total operating revenue of \$135,682 and operating expenses of \$60,334, leaving net operating revenues of \$75,348. The company has outstanding \$300,000 of common stock and an underlying bond issue of \$200,000 and an overlying bond issue of \$332,000. In addition, it has outstanding notes payable in the amount of \$28,036.50.

Under date of April 11, 1923, the Douglas County Light and Water Company and John Kiernan, J. L. Kendall and S. A. Kendall, all interested in the Douglas County Light and Water Company, granted to The California-Oregon Power Company an option to purchase the business, assets, goodwill and properties of every kind, character and description of the Douglas County Light and Water Company for the sum of \$600,000. Under date of June 13th, The California-Oregon Power Company served notice on the parties mentioned that it will exercise the option and purchase the properties of the Douglas County Light and Water Company subject to its outstanding bonds. The California-Oregon Power Company further agreed to pay par for the underlying bonds; 80 per cent of par for the overlying bonds and a sum equal to the difference between \$600,000 and the sums to be paid for the bonds, such difference to be paid to the Douglas County Light and Water Company.

The testimony shows that The California-Oregon Power Company intends to expend during the next two years approximately \$125,000 to enable it to render more adequate service to the users of electricity and water served by the Douglas County Light and Water Company. One of applicant's principal transmission lines, extending from Prospect to Springfield, Oregon, passes within six miles of the city of Roseburg. It is the intention of applicant, if it acquires the properties, to connect the electric system of the Douglas County Light and Water Company with this transmission line.

#### ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to merge or consolidate its plant and system with that of the Douglas County Light and Water Company, a public hearing having been held and the Commission being of the opinion that this application should be granted as herein provided; therefore

*It is hereby ordered*, that the California-Oregon Power Company be and it is hereby authorized to acquire all of the business, assets, goodwill and properties of every kind, character and description of the

Douglas County Light and Water Company and pay therefor the sum of \$600,000, or to acquire the outstanding stock, bonds and other evidences of indebtedness of such company and pay therefor the sum of \$600,000, such properties or stock and bonds to be acquired pursuant to the agreements filed in this proceeding and marked "Exhibit B," "Exhibit C" and "Exhibit D."

The authority herein granted is subject to the following conditions:

(1) Applicant shall file with the Commission as soon as possible a certified copy of the deed under which it obtains and holds title to the properties which it is herein permitted to acquire.

(2) The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this twenty-eighth day of June, 1923.

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DECISION No. 12292.

IN THE MATTER OF THE APPLICATION OF THE FAIRFAX INCLINE RAILROAD COMPANY FOR AUTHORITY TO INCREASE PASSENGER FARES AND MAKE CERTAIN CHANGES IN ITS OPERATING TIME SCHEDULE.

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Application No. 8877.

Decided June 29, 1923.

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*Wm. T. Eckhoff*, for Applicant.  
*Thos. C. Jordan*, for Protestant.

MARTIN, *Commissioner*.

OPINION.

This is an application of the Fairfax Incline Railroad Company by G. C. F. Seidel, its president, for authority under section 63 of the Public Utilities Act to increase passenger fares and make changes in the operating time schedule.

It is proposed to increase the present one-way fare from 5 cents to 10 cents and the book containing 100 rides from \$3 to \$6; in other words, an advance of 100 per cent.

The new time schedule proposes that the car leaving the top of the incline railroad at 11.20 p.m. and the one leaving the foot at 11.25 p.m. will run Saturday only instead of daily. Also that an additional car will leave the top of the incline at 6.10 a.m. daily.

In justification of the proposed changes the applicant alleges that the fares now in effect are too low for the services performed and that its revenues are insufficient to meet even the operating expenses and taxes.

The Fairfax Incline Railroad is located at Fairfax, in Marin County, and operates a single car up the mountain side by use of a cable for a

distance of about 1400 feet. The company was incorporated July 16, 1913, with 10,000 shares of preferred stock having a par value of \$1 per share, all of which, according to the annual report for the year ending December 31, 1920, with the exception of one share, was held in the name of Rivers Bros. The annual reports for 1921 and 1922 show that 9998 shares of this stock are now owned by G. C. F. Seidel, the present operator and president of the property.

The applicant commenced filing annual reports with the Commission in the year 1920 and the tabulation set forth below shows the results during the three years ending December 31, 1920-21-22.

*Income Statement.*

Items	Year ending December 31		
	1920	1921	1922
Railway operating revenues-----	\$2,085 85	\$2,140 90	\$2,503 80
Railway operating expenses-----	2,215 83	3,249 71	3,233 50
Net revenue—railway operations-----	\$129 98	\$1,108 81	\$729 70
Taxes assignable to railway operations-----		98 09	347 84
Operating income (deficit)-----	\$129 98	\$1,206 90	\$1,077 54

It will be noted from these figures that the operating revenue for the year ending December 31, 1920, was \$2,085.85, for the year 1921 \$2,140.90, and for the year 1922 \$2,503.80, an increase in 1922 over 1920 of \$417.95. At the same time the operating expenses for the year 1920 amounted to \$2,215.83, in 1921 \$3,249.71, and in 1922 \$3,233.50, an increase, including taxes, of \$1,365.51. In the segregation of the operating expenses for the year 1922 the two large items are power \$547.09 and labor \$2,400. The latter item is compensation credited to the owner, Mr. Seidel, and is the only labor charge included in the operating expenses. The other operating expenses are water \$18.71 and miscellaneous expenses \$181.10. It will thus be seen that the only operating expenses of any importance are those for power and labor. The company keeps practically no books and, therefore, the Commission sent an employee from its auditing department to check the accounts, but few vouchers were found to cover the minor miscellaneous expenditures. However, there was a complete record and vouchers to cover the large charges, such as power, light, water, taxes and insurance. As to the operating revenues the testimony and our check showed these are accounted for in a very indifferent manner, there being no cash register on the single car employed by the company, and the amounts shown in the cash book are entries made by Mr. Seidel himself, who makes the collections while operating the car and enters the total at the end of the day's business. It would appear that the cash collected is not kept separate and distinct from other financial transactions during the day, but is mixed up with Mr. Seidel's miscellaneous activities, such as the

sale of milk, newspapers, the conduct of a laundry route, etc. Prior to the purchase of the property by Mr. Seidel a cash register was carried on the car, but it was claimed this register was inaccurate and unsatisfactory, principally for the reason that unauthorized persons patronizing the car, especially transient hiking parties, would tamper with the register and ring up fares when the operator of the car was not in a position to prevent.

The applicant claims that the total original cost of the Fairfax Incline Railroad was \$11,682.15, but declined to state the price he paid for the property. In order to secure a tentative valuation of the property the engineering department of the Commission made an investigation and as of April 30, 1923, gave the historical reproduction cost as \$18,641, and the historical reproduction cost, less depreciation, as \$12,026.

We do not think it necessary to enter into any details of the valuation of this property, as the question before us is not one of receiving a just and reasonable return on the property, but is an effort to arrive at rates which will at least pay operating expenses and taxes and at the same time render a service satisfactory to the public.

The single trip fare of 5 cents and a fare of \$2 for 100-ride books were originally established July 24, 1913. The single trip fare has never been changed but, effective May 5, 1920, upon an informal showing before the Commission, the 100-ride book of tickets was increased from \$2 to \$3. Applicant is now contending for a single trip fare of 10 cents and a 100-ride book of \$6.

Intervenors presented a number of witnesses, whose testimony was mainly directed to the fact that under Mr. Seidel's control the patronage of the line had fallen off, the service had been very poor and not at all times considered safe. Their conclusion appears to be that if the line were handled under a different management, with more courteous treatment and a special effort to please the patrons, the revenues would be greatly increased by reason of the fact that permanent residents in Fairfax Tract would use the cars regularly instead of, as at the present time, walking whenever the opportunity offers. There was also testimony to the effect that at the beginning passengers were carried without charge when the real estate was being sold and the purchasers of the property were then given to understand that the railroad would be continued for the benefit of the property owners, but notwithstanding this implied agreement the duty devolves upon this Commission to see that the traveling public receive satisfactory service at reasonable rates, also that the utility, when possible, receives a fair and reasonable return upon the property devoted to the service.

Upon this record our conclusion as to the necessity for an increase in revenue would be easy of determination were it not for the doubt as to the total revenue collected, which, as heretofore stated, is accounted for in a very unsatisfactory manner but, notwithstanding this uncertainty, the sworn testimony indicates an inadequate return to cover even the operating expenses and taxes.

We conclude and find, in view of all the circumstances of record in this proceeding, that the present passenger fares of applicant are unjust, unreasonable and insufficient, and that a fare of six (6) cents for a single trip and a fare of \$3.60 for a 100-trip book are just and reasonable. The 100-trip book to be sold under the condition and rule that tickets will only be honored for transportation of the bearer and party and will be valid for use of any person and for any number of passengers not exceeding the number of coupons remaining in the book when presented; coupons not to be honored if presented without the book.

Applicant has not justified any change in the time schedule and authority is denied to discontinue the week-day trips of the 11.20 and 11.25 p.m. cars.

The Commission expects applicant to keep accurate record of his receipts and expenses and of the money invested in new property. While this may entail some additional work, it is essential that such records be kept in order that should the Commission hereafter be called upon to revise applicant's rates, it will be possible for applicant to furnish accurate information. The Commission has heretofore directed all companies and individuals operating electric railways to keep their accounts in accordance with the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

The increases in fares authorized should permit of better results and, therefore, this applicant is instructed to immediately give careful consideration to the details of operation and render such service as will meet with the approval of the regular patrons of the line. In a situation of this kind the cooperation of all interested parties is necessary and if the service via this 1400 feet of incline railroad is to continue, it must have the support and assistance of those who patronize the line.

#### ORDER.

Public hearings having been held in the above entitled proceeding, the matter having been submitted, the Commission having been duly advised, and basing its order on the findings of fact set forth in the preceding opinion;

*It is hereby ordered*, that the Fairfax Incline Railroad be authorized to establish, within twenty (20) days from the date of this order, a



single trip fare of 6 cents and a fare of \$3.60 for a 100-trip book, coupons from the book to be honored only when presented in connection with the book and for any number of passengers, not exceeding the number of coupons in the book when presented.

The foregoing opinion and order are hereby ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1923.

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DECISION No. 12293.

IN THE MATTER OF THE APPLICATION OF RODEO-VALLEJO FERRY COMPANY FOR A WHARF FRANCHISE.

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Application No. 9126.

Decided June 29, 1923.

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BY THE COMMISSION.

**ORDER.**

Rodeo-Vallejo Ferry Company having been granted on May 7, 1923, for a period of twenty years from said date by the board of supervisors of Contra Costa County, a franchise permitting said company to erect and maintain a wharf upon certain lands bordering on the southerly shore of the Straits of Carquinez and situate in Supervisorial District No. 2 in the said county of Contra Costa, State of California, more particularly described within the following boundaries, to wit:

Beginning at a point in a line that runs from the northwest corner of the wharf in the wharf franchise of the California and Hawaiian Sugar Refining Corporation, formerly California and Hawaiian Sugar Refining Company, granted September 15, 1913, in a straight line of the course north  $88^{\circ} 4'$  west to the northeast corner of the wharf of the American Smelters Securities Company formerly Selby Smelting and Lead Company (said line being the line of the new pier head or proposed pier head adopted or to be adopted by the War Department for the United States Government) distant 150 feet along said line of said wharf franchise of said California and Hawaiian Sugar Refining Corporation thence from said point of beginning westerly along said line 520 feet more or less to a point 150 feet easterly at right angles from the east line of the wharf franchise No. 287 granted to A. S. Carman February 5, 1917, and now property of the Matson Navigation Company if said east line were extended northerly through the pierhead line of 1888 to intersect with the first above mentioned line (and which line lies to the north of said 1888 pierhead line); thence leaving said new line southerly and parallel with and distant 150 feet easterly from said Matson Navigation Company franchise 370 feet; thence easterly parallel with the said first mentioned line 520 feet more or less to a point that is 150 feet westerly from the westerly line of the above mentioned franchise of said California and Hawaiian Sugar Refining Corporation; thence northerly parallel with and distant 150 feet westerly from said west line last mentioned 370 feet to the point of beginning.

Excepting therefrom all that portion thereof which lies within Tide Land Survey No. 229 as said survey is described in the patent from the State of California to Patrick Hanlon dated March 2, 1903, and recorded March 19, 1917, in volume 5 of Patents, page 20 and described therein as follows: Location

No. 229, State Tide Lands, Contra Costa County, Township 3 North, Range 3 West, Mount Diablo Meridian; Section No. 31, fraction in southeast quarter of said section 31, described as follows: Beginning at a point on the southerly side of the Straits of Carquinez 14.36 chains north of the southeast corner of section 31, said township and range in the line of extreme low tide; thence south 5.07 chains to station in the United States bulkhead line; thence north  $89^{\circ} 17'$  west running along said bulkhead line 5.57 chains to station; thence north 4.70 chains to station in low water line; thence north  $87^{\circ}$  east 5.58 chains to the place of beginning, run by true meridian, magnetic variation  $17^{\circ} 05'$  east and containing 2.71 acres.

And having applied to the Railroad Commission for approval of the said franchise, and having submitted to the Railroad Commission copies of papers filed with the board of supervisors of Contra Costa County, together with a copy of the order of said board of supervisors granting the above mentioned franchise.

And the Commission being of the opinion that this is not a case in which a public hearing is necessary, and that the application should be granted; now, therefore,

*It is hereby ordered*, that the Railroad Commission hereby approves the wharf franchise described in the petition herein, provided that this order shall not become effective until Rodeo-Vallejo Ferry Company has filed with the Railroad Commission, for approval, a stipulation duly authorized by its board of directors declaring that neither Rodeo-Vallejo Ferry Company, nor its successors, nor assigns will ever claim before the Railroad Commission or any court or other public body any value for said wharf franchise in excess of the amount actually paid to the county of Contra Costa as consideration for the grant of said franchise, which amount shall be stated in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in a form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-ninth day of June, 1923.

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DECISION No. 12294.

IN THE MATTER OF THE APPLICATION OF JOHN G. RAPP, OF OLEMA, MARIN COUNTY, CALIFORNIA, ORDER AUTHORIZING PERMISSION TO INSTALL METERS AND CHARGE METER RATES.

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Application No. 9082.

Decided June 29, 1923.

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*John G. Rapp, in propria persona.*

BY THE COMMISSION.

OPINION.

In this application John G. Rapp, who is engaged in supplying water as a public utility to about twenty consumers, in and in the vicinity of

Olema, Marin County, asks permission to install meters and charge meter rates, or if such authority is not granted to discontinue service.

It is alleged in effect that the installation of meters is required in order to avoid the waste of water and so prevent serious shortage of water during the fall of the year.

A public hearing was held in this matter before Examiner Geary. All interested parties were duly notified thereof and given an opportunity to be present and to be heard.

This water system was originally installed about thirty years ago by predecessors in interest of the present owner and applicant herein, who acquired the property about four years ago. The entire supply is secured by gravity through diversion from creeks in the vicinity of Olema.

The evidence indicates that a shortage of water occurs each fall, when the flow of the streams is low and, as all consumers are supplied at flat rates, that wasteful use of water is responsible for the shortage. The installation of meters will undoubtedly be of material assistance in preventing waste and in conserving water, as well as resulting in a more equitable distribution of the cost of furnishing the supply.

The present flat rates charged for water delivered to consumers are \$1 per month for domestic use with a few higher rates for larger establishments.

Applicant desires to establish a monthly minimum charge of \$1 for 400 cubic feet of water or less with all water in excess of 400 cubic feet at the rate of 25 cents per 100 cubic feet.

John Spencer, one of the Commission's hydraulic engineers, presented a report at the hearing which showed an estimated original cost of the system, exclusive of any value attached to water rights and watershed lands, or for the necessary cost of meters, amounting to \$5,211. Depreciation annuity, computed by the sinking fund method at 6 per cent, was shown as \$46, and reasonable annual maintenance and operation expenses as \$200. Revenues from the sale of water in 1922 amounted to \$276, not including the water delivered to applicant for use in connection with the operation of his dairy farm.

It is apparent that the rates requested by applicant, with some slight modifications, when applied to all consumers, including the water used by applicant himself, will not yield an unreasonable return, and should be authorized.

#### ORDER.

John G. Rapp having made application for authority to install meters and to establish meter rates for water delivered to consumers in and in the vicinity of Olema, Marin County, a public hearing having

been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by John G. Rapp for water delivered to consumers in and in the vicinity of Olema, Marin County, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that John G. Rapp be and he is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates, effective for all water delivered to consumers subsequent to July 31, 1923:

*Monthly Meter Rates.*

From 0 to 5000 cubic feet, per 100 cubic feet -----	\$0 25
All over 5000 cubic feet, per 100 cubic feet -----	20

*Monthly Minimum Charges.*

For $\frac{5}{8}$ -inch meters -----	\$1 00
For $\frac{3}{4}$ -inch meters -----	1 75
For 1-inch meters -----	2 50
For 1 $\frac{1}{2}$ -inch meters -----	4 50
For 2-inch meters -----	8 00

NOTE—Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum charge will purchase at the "monthly meter rates" as set out above.

*Monthly Flat Rates.*

The present schedule of flat rate charges to continue in effect until such time as meters are installed.

*It is hereby further ordered*, that John G. Rapp be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-ninth day of June, 1923.

DECISION No. 12298.

MOTOR TRANSIT COMPANY, A CORPORATION,

*vs.*

FRANK S. SNELL.

Case No. 1830.

Decided July 3, 1923.

TRANSPORTATION COMPANY—AUTO TOURING COMPANY, NOT CLASSED AS.—Auto touring stage line supplying meals and lodging accommodations at resorts can

41-24801

not be classed as a transportation company, and is not subject to jurisdiction of the Commission.

*Kidd and Hardy*, by *Rea Hardy*, for Complainant.  
*Frank S. Snell* and *W. Cloyd Snyder*, for Defendant.

BY THE COMMISSION.

#### OPINION.

Motor Transit Company, a corporation, complains of defendant and alleges that for approximately six months prior to October 24, 1922, defendant has been operating lines of auto stages between the city of Los Angeles and Big Bear Valley in the San Bernardino Mountains in the hauling and transportation of passengers for compensation; that such operation is over a regular route and between fixed termini; that defendant purports to be operating a sight-seeing line as defined in chapter 213, Statutes of 1917, and amendments thereto, which exempt such operation from the necessity of procuring certificate of public convenience and necessity from this Commission; that the operations of the defendant are those of a common carrier and as a motor transportation company as defined in the said legislative enactments; that defendant was not operating on May 1, 1917, and has since received no certificate from this Commission and is therefore operating in violation of the statutory law. Complainant prays for an order declaring that the operations of defendant are not those of a sight-seeing line in good faith but are those of a common carrier or of a motor transportation company; that the Commission has jurisdiction over such operations; that the Commission find and determine that the alleged operation by defendant is illegal; and that the defendant be ordered to discontinue such operation.

Public hearings in the above entitled proceeding were conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Witnesses for complainant testified as to the operation by defendant of automobiles between Los Angeles and San Bernardino mountain resorts during the 1922 season and that cars of defendant were observed daily either on the road or at some of the various resorts. Some of these witnesses had made the trip from Los Angeles with defendant, although none made the return journey or attempted to secure refund for the unused portion of their round trip ticket or for any of the meal or lodging accommodations included in the ticket. There was no evidence that any passengers had been transported locally between Los Angeles and San Bernardino mountain points, all the evidence showing that tickets for the entire trip were purchased and that such tickets included, in addition to the transportation, meals en route in both directions and a minimum of one night's accommodation at any resort or camp selected by the purchaser of the ticket.

Frank S. Snell, Jr., defendant herein, testified as to the character of operation as conducted by him during the period covered by the complaint. It appears that a through trip was offered from Los Angeles to any resort selected by the patron; that coupon tickets were issued covering the round trip transportation; meals en route and lodging or hotel accommodations at Big Bear Valley points for such periods as might be desired by passengers and in all cases covering at least one night's accommodation. The price of the trip varied as to the particular resort and length of stay thereat desired by his patrons. Defendant testified that at no time did he ever transport patrons without furnishing tickets and that such tickets and the compensation received therefor always included the value of meals en route and resort or camp accommodations. No transportation of passengers from Los Angeles to San Bernardino mountain points, or in the reverse direction, was ever made, patrons in all instances purchasing the tickets for the full round trip including meals and resort or camp accommodations.

A driver who had been employed by defendant also testified that no local passengers had ever been transported by him nor any passengers unless they held tickets with coupons thereon for meals and resort or camp accommodations.

Exhibits were filed by defendant consisting of ticket stubs, form of ticket used, coupons for accommodations, and canceled checks paid to resort and camp proprietors for accommodations furnished patrons of defendant.

It appears from the evidence herein that the defendant has not been engaged in the business of a transportation company as defined by paragraph (c) of section 1 of chapter 213, Statutes of 1917, as amended, in that all service rendered to his patrons has covered a touring trip in which meals and accommodations have been furnished as a portion of the items included in the value of the ticket; that no transportation has been furnished unless patrons purchased tickets for the entire trip, including meals and accommodations; and that defendant, in good faith, has furnished the character of trip offered to his patrons and has assumed the cost of meals and accommodations which were furnished patrons using his service.

Under the state of facts presented by all the evidence in this proceeding, we are of the opinion and hereby conclude that the operation of defendant as complained of is not that of a transportation company as defined by the statute and that the complaint should therefore be dismissed.

#### ORDER.

Public hearings having been held on the complaint herein, the matter having been duly submitted and the Commission now being fully

advised and basing its order on the findings and conclusion as set forth in the opinion which precedes this order;

*It is hereby ordered*, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this third day of July, 1923.

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DECISION No. 12299.

IN THE MATTER OF THE APPLICATION OF BELVEDERE WATER CORPORATION FOR AUTHORITY TO PURCHASE ALL OF THE PROPERTIES OF BELVEDERE WATER COMPANY AND UTILITY PROPERTIES OF JANSSE INVESTMENT COMPANY AND TO ISSUE AND SELL CERTAIN OF ITS FIRST MORTGAGE SIX AND ONE-HALF PER CENT BONDS.

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Application No. 9015.

Decided July 3, 1923.

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*Gibson, Dunn and Crutcher*, by *H. F. Prince*, for Applicants.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order:

(1) Authorizing Belvedere Water Company and Jansse Investment Company to sell and Belvedere Water Corporation to purchase all of the properties of Belvedere Water Company and all of the utility properties of the Jansse Investment Company;

(2) Authorizing Belvedere Water Corporation to execute a mortgage or deed of trust and issue and sell under such mortgage or deed of trust \$300,000 of 6½ per cent bonds due January 1, 1944; and authorizing the Belvedere Water Corporation to issue \$125,000 of 7 per cent cumulative preferred stock and \$220,000 of common stock;

(3) Authorizing Belvedere Water Corporation to install the improvements described in the application.

A hearing was had on this application before Examiner Fankhauser at Los Angeles.

The properties which are the subject of this application are used to supply water for domestic purposes to about 35,000 inhabitants residing in territory situate contiguous to the northerly boundary of the city of Los Angeles. Some of the districts served by applicants are known as Boyle Heights, Belvedere, Laguna and Belvedere Gardens. Part of the properties are owned by the Belvedere Water Company and others by the Jansse Investment Company. There is, however, a common interest of ownership in the properties, regardless of who holds legal title, have been operated as a unit.

Applicants in their exhibit prepared by C. H. Loveland, consulting engineer, reports the historical cost of the combined properties at \$567,480. This amount is segregated to the Belvedere Water Company and to the water department of the Janss Investment Company as follows:

Account	Belvedere Water Company	Water Dept. Janss Invest- ment Co.	Combined
Franchises and water rights-----	\$13,425 00	\$29,340 00	\$42,765 00
Landed capital -----	20,850 00	11,700 00	32,550 00
Buildings, structures and grounds-----	8,050 00	2,410 00	10,460 00
Wells -----	10,175 00	12,208 00	28,383 00
Pumping equipment -----	21,966 00	8,731 00	30,697 00
Miscel. pumping station equipment-----	1,285 00	-----	1,285 00
Distribution mains -----	120,947 00	152,496 00	273,443 00
Distribution reservoirs -----	6,751 00	16,740 00	23,491 00
Hydrants, etc. -----	432 00	-----	432 00
Services -----	42,245 00	16,972 00	59,217 00
Meters -----	45,160 00	4,548 00	49,708 00
General shop equipment -----	208 00	297 00	505 00
General garage equipment -----	1,597 00	1,596 00	3,193 00
Materials and supplies-----	5,631 00	5,630 00	11,261 00
Totals -----	\$304,812 00	\$262,668 00	\$567,480 00

The operating revenue of the properties for 1922 are reported at \$83,632.03, the operating expenses, including depreciation and taxes, at \$52,347.38, leaving a net operating revenue of \$31,284.65. The non-operating revenues are reported at \$249.01, which, added to the \$31,284.65, makes a total available for interest, dividends and surplus in the amount of \$31,533.66. The operating revenues for 1923 are estimated at \$114,000, the operating expenses at \$70,000, leaving net operating revenues of \$44,000.

During the first three months of the current year water sales amounted to 11,839,200 cubic feet as compared with 8,235,400 cubic feet and 3,542,400 cubic feet, respectively, for the corresponding months of 1922 and 1921. The total water sales for 1921 are reported at 25,345,200 cubic feet and for 1922 at 60,009,500. The number of services in place at the end of 1921 are reported at 4,986 and at the end of 1922 at 7,044.

Belvedere Water Corporation has agreed to issue in payment for all of the properties of the Belvedere Water Company \$125,000 par value of 7 per cent cumulative preferred stock and \$178,000 par value of common stock. It has further agreed to issue and deliver to the Janss Investment Company in payment for its utility properties \$42,000 of its common stock, and in addition thereto pay the company \$225,533 in cash.

Belvedere Water Corporation estimates that it should expend during 1923 for the installation of additions, betterments and improvements



the sum of \$56,467. This amount it intends to expend for the following purposes:

2000 $\frac{3}{4}$ " meters to be installed on services which have been constructed and are included in appraisal.....	\$27,610 00
545 new meters and services.....	12,834 00
Installation of remote control on Bonnie Beach, Chink and Platt Plants from Stephenson Plant.....	6,900 00
Equipment of Platt Plant with 6" Byron Jackson pump and motor, fittings, building and 300 feet of 6" discharge line.....	4,123 00
Completion of miscellaneous work already started, such as hydrant installation, connecting up pipe lines, etc. ....	5,000 00
Making a total expenditure of.....	\$56,467 00

A substantial part of the additions, betterments and improvements have already been installed.

To secure the cash necessary to pay in part for the properties which the Belvedere Water Corporation intends to acquire from the Janss Investment Company and to pay for the additions, betterments and improvements to which reference has been made, the corporation asks permission to issue and sell at 94 and accrued interest, \$300,000 of first mortgage  $6\frac{1}{2}$  per cent bonds due January 1, 1944. The payment of these bonds is to be secured by a mortgage or deed of trust which the corporation intends to execute to the Citizens Trust and Savings Bank. There has been filed with the Commission a revised copy of the trust indenture, which for the purpose of identification has been marked "Exhibit F Revised." This trust indenture when duly executed will secure the payment of an authorized issue of \$1,000,000 of bonds. It provides that the company shall not issue bonds (other than the \$300,000 covered by this application) unless and until the net earnings of the company after depreciation for the fiscal year, or for twelve months of the fourteen months, next preceding such further issuance, amount to at least one hundred and fifty per cent (150%) of the interest requirements on the bonds then outstanding and upon such further bonds then proposed to be issued, in which event such further bonds may be issued in an aggregate principal amount not exceeding fifty per cent (50%) of the cost of new improvements or estimates upon the property mortgaged or conveyed in trust.

#### ORDER.

A public hearing having been held upon the above entitled application and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stocks and bonds herein authorized to be issued is reasonably required by Belvedere Water Corporation and that the transfer of the properties of the Belvedere Water Company and the utility properties of Janss Investment Company is in the public interest and that Belvedere Water Corporation should be authorized to acquire such properties;

*It is hereby ordered, as follows:*

1. Belvedere Water Company may sell all of its properties described in this application to the Belvedere Water Corporation;

2. Janss Investment Company may sell all of its utility properties described in this application to the Belvedere Water Corporation;

3. Belvedere Water Corporation may acquire the properties of the Belvedere Water Company and the utility properties of the Janss Investment Company referred to in subdivision "1" and "2" of this order.

4. Belvedere Water Corporation may execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding and marked "Exhibit F Revised," provided that the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which such mortgage or deed of trust may be subject.

5. Belvedere Water Corporation may issue at not less than par \$125,000 of 7 per cent cumulative preferred stock and \$220,000 of common stock. All of the preferred and \$178,000 of the common stock shall be delivered to the Belvedere Water Company in payment for its properties, which properties shall be transferred to the Belvedere Water Corporation free and clear of all encumbrances. Of the common stock, \$42,000 shall be delivered to the Janss Investment Company in part payment for its utility properties, which properties shall be transferred to the Belvedere Water Corporation free and clear of all encumbrances.

6. Belvedere Water Corporation may issue and sell at not less than 94 per cent of their face value and accrued interest, \$300,000 of 6½ per cent first mortgage sinking fund gold bonds due January 1, 1944, and use \$225,533 of the proceeds to pay in part for the utility properties which it is authorized to acquire from the Janss Investment Company. The remainder of the proceeds shall be used to finance the installation of the additions, betterments and improvements referred to in the foregoing opinion.

The authority herein granted is subject to further conditions as follows:

(1) The consideration being paid by the Belvedere Water Corporation for the properties which it is herein authorized to acquire shall not be urged before this Commission as a measure of the value of such properties for the purpose of fixing rates.

(2) Belvedere Water Corporation shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(3) The authority herein granted to issue stock and transfer properties will become effective upon the date hereof. The authority herein granted to issue bonds will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$300. The authority herein granted to issue stock and bonds and to transfer properties will apply only to such stock and bonds as may be issued and to such transfer of properties as may be effected on or before December 1, 1923.

Dated at San Francisco, California, this third day of July, 1923.

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DECISION No. 12300.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION FOR AUTHORITY TO DISPOSE OF CERTAIN REAL PROPERTY.

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Application No. 9123.

Decided July 3, 1923.

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BY THE COMMISSION.

**ORDER.**

Los Angeles Railway Corporation asks permission to sell approximately 9036 acres of land situated in the city of Vernon, for the sum of \$67,770. The properties which applicant asks permission to sell are described in "Exhibit A" filed in this proceeding. The properties are subject to the lien of the mortgage of the Los Angeles Railway Company to the Union Trust Company of San Francisco. An appraiser of the Trust Company estimates the market value of the properties at \$67,770. It is of record that the properties which applicant desires to sell are no longer used by it in the operation of its street car service.

The Commission has considered applicant's request and believes that this is not a matter on which a public hearing is necessary and that the application should be granted as herein provided; therefore

*It is hereby ordered*, that Los Angeles Railway Corporation be and it is hereby authorized to sell the properties described in "Exhibit A" filed in this proceeding for the sum of \$67,770, provided that the price

at which applicant is herein authorized to sell the properties be not urged in a rate, or other proceeding, before the Commission as a measure of value of the properties retained or acquired by applicant and similarly situated.

Dated at San Francisco, California, this third day of July, 1923.

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DECISION No. 12313.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY AND OF FRANKLIN V. SPOONER, ROBERT R. PARADOW AND JOHN C. RUED; AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. FORGAN, I. DE BRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMAN, AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF \$3,000,000 PRINCIPAL AMOUNT OF FIRST MORTGAGE SIX PER CENT BONDS.

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Application No. 7031.

Decided July 3, 1923.

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BY THE COMMISSION.

**EIGHTH SUPPLEMENTAL ORDER IN APPLICATION No. 2351.  
FIRST SUPPLEMENTAL ORDER IN APPLICATION No. 7031.**

In a supplemental petition filed in the above entitled matters on May 29, 1923, the Western Pacific Railroad Company asks the Railroad Commission to make an order authorizing it to use \$663,519.82 obtained from the sale of bonds authorized by Decision No. 3453, dated June 22, 1916, as amended, and \$303,142.52 obtained from the sale of bonds authorized by Decision No. 9470, dated September 7, 1921, for the purpose of financing in part the cost of betterments, additions and extensions to its lines of railway and to its equipment.

The company reports that subsequent to July 15, 1916, and to and including January 31, 1923, it expended from its income or from other funds not derived from the issuance of stocks, bonds, notes or other evidences of indebtedness for betterments, extensions and additions to

its lines of railway and for equipment thereof the sum of \$1,010,158.23. This amount was expended for the following purposes:

Niles-San Jose branch.....	\$3,385 00
North Channel spur.....	172,414 69
Reno branch .....	101,680 06
San Joaquin River bridge.....	83,570 50
Carlin ice plant.....	146,313 14
Land .....	11,611 40
Industrial and other tracks.....	85,064 40
Telegraph and telephone lines.....	49,867 79
Roadway machines.....	2,924 25
Station and office buildings.....	3,227 01
Betterments to existing equipment.....	18,743 63
Bridges, trestles and culverts.....	33,021 12
Miscellaneous structures .....	14,583 19
Roadway protection.....	45,733 60
Shops and engine houses.....	14,039 43
Track betterments.....	7,716 63
Wharves and docks.....	27,740 79
Tunnels and subways.....	884 74
Rebuilt equipment.....	19 51*
Shop machinery.....	128 29
Signals and interlockers.....	181 95
New equipment.....	32,676 73
Interest during construction:	
San Jose branch.....	144,299 69
Calpine branch .....	10,369 71
<hr/> Total .....	<hr/> \$1,010,158 23

\*Credit.

The Commission has considered the request of applicant to use the proceeds from the sale of its bonds to finance in part the reported expenditures and it believes that the request should be granted as herein provided; therefore,

*It is hereby ordered*, that the order in Decision No. 3453, dated June 22, 1916, as amended, and the order in Decision No. 9470, dated September 7, 1921, as amended, be and they are hereby further amended so as to permit The Western Pacific Railroad Company to use \$663,519.82 obtained from the sale of the bonds authorized by Decision No. 3453, and \$303,142.52 from the sale of bonds authorized by Decision No. 9470, to finance in part the construction expenditures incurred on or before January 31, 1923, reported in the supplemental petition filed May 29, 1923, in the above entitled matters, and to reimburse its treasury on account of such expenditures.

*It is hereby further ordered*, that the order in Decision No. 3453, dated June 22, 1916, as amended, and the order in Decision No. 9470, dated September 7, 1921, as amended, shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this third day of July, 1923.

## DECISION No. 12332.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF FIFTY THOUSAND SHARES OF SEVEN PER CENT CUMULATIVE NONPARTICIPATING PREFERRED STOCK AT NOT LESS THAN THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

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Application No. 9131.

Decided July 10, 1923.

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*Roy V. Reppy*, for Applicant.

BRUNDIGE, *Commissioner*.

**OPINION.**

Southern California Edison Company asks permission to issue and sell, at not less than par, \$5,000,000 of 7 per cent cumulative nonparticipating preferred stock and use the proceeds for the purposes hereafter mentioned.

Applicant has an authorized stock issue of \$100,000,000 divided into \$4,000,000 of 5 per cent cumulative participating original preferred, \$36,000,000 of 7 per cent cumulative nonparticipating preferred and \$60,000,000 of common stock. As of May 31, 1923, applicant had outstanding \$4,000,000 of original preferred, \$6,921,400 of 7 per cent preferred and \$50,136,900 of common stock. Of the common stock, \$10,836,628 is controlled by applicant, leaving \$39,300,272 of common stock outstanding and held by the public. In addition, \$1,215,700 of the 7 per cent preferred and \$6,734,600 of applicant's common stock was subscribed for but not issued on May 31, 1923. As of that date there was due from subscribers for applicant's capital stock the sum of \$5,404,785.74. As of May 31, 1923, applicant had outstanding in the hands of the public, or subscribed for by the public, stock in the amount of \$58,171,972.

The Commission has heretofore authorized applicant to issue and sell, at not less than par, \$9,500,000 of its 7 per cent cumulative nonparticipating preferred stock. The order of the Commission permits applicant to issue in exchange its 7 per cent cumulative nonparticipating preferred stock for outstanding 7 per cent debentures, on a par for par, or better, basis. Applicant asks for permission to exchange for debentures on the same basis some of the \$5,000,000 of stock covered by this application. As of May 31, 1923, \$4,884,000 of debentures were outstanding. It further desires to consolidate the proceeds obtained from the sale of other stock heretofore authorized to be issued and sold by the Commission, and to use such proceeds to reimburse its treasury for moneys expended to retire, at par or less, such of its outstanding 7 per cent gold debentures as are not exchanged for said preferred

stock and/or to reimburse its treasury on account of moneys expended in the retirement and discharge of the \$3,743,000 of bonds referred to and set out in Decision No. 11952, dated April 20, 1923, in Application No. 8032, and/or to finance the extensions, betterments and additions to applicant's hydro-electric system reported in Exhibit No. 2 filed in Application No. 8591. In that exhibit applicant estimates its 1923 construction expenditures at \$26,000,000.

A. Big Creek Construction :

Third unit power house No. 1.....	\$920,000 00
Big Creek No. 3.....	9,082,000 00
Huntington-Pitman tunnel .....	800,000 00
Florence tunnel .....	3,180,000 00
Shaver reservoir .....	527,000 00

\$14,509,000 00

Less undistributed miscellaneous construction expenditures prior to 1923 included in above items .....	2,658,000 00
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Net production 1923..... \$11,851,000 00

B. Transmission ..... 4,149,000 00

C. Miscellaneous system betterments..... 10,000,000 00

Total estimated 1923 construction expenditures..... \$26,000,000 00

The Commission has heretofore authorized applicant to sell \$10,000,000 of bonds and use the proceeds to pay in part its 1923 construction expenditures. These bonds have been sold by applicant at 94 per cent of face value and accrued interest. The proceeds which applicant has received from the sale of the bonds, together with the proceeds which it will derive from the sale of stock heretofore authorized to be issued, will not be sufficient to complete the payment of the 1923 construction expenditures. The sale of additional stock by applicant is necessary.

I herewith submit the following form of order :

**ORDER.**

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$5,000,000 par value of 7 per cent cumulative nonparticipating preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income ;

*It is hereby ordered,* that Southern California Edison Company be and it is hereby authorized to issue and sell for cash, at not less than par, \$5,000,000 par value of 7 per cent cumulative nonparticipating

preferred stock or exchange part of such stock on a par for par, or better, basis, for its outstanding 7 per cent debenture bonds.

*It is hereby further ordered*, that Southern California Edison Company may consolidate the proceeds obtained from the sale of said \$5,000,000 par value of stock with the proceeds obtained from the sale of other stock heretofore authorized to be issued and sold, by the Commission, and to use said proceeds to reimburse its treasury for moneys expended to retire, at par or less, such of its outstanding 7 per cent gold debenture bonds as are not exchanged for said preferred stock, and/or to reimburse its treasury on account of moneys expended for the retirement or discharge of the \$3,743,000 face value of bonds referred to in Decision No. 11952, dated April 20, 1923, and/or to finance in part such cost of the extensions, additions and betterments reported in its Exhibit No. 2, filed in Application No. 8591, as is properly chargeable to capital account under the system of accounts prescribed or adopted by this Commission, and not financed through the issue of stock or bonds heretofore authorized by the Commission.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall file with the Commission during 1923 a monthly report showing in detail the amount expended for extensions, additions and betterments.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the date hereof but such authority to issue and sell stock will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of July, 1923.



## DECISION No. 12334.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF THREE HUNDRED EIGHT THOUSAND SIX HUNDRED DOLLARS PAR VALUE FIRST AND REFUNDING MORTGAGE SERIES "B" GOLD BONDS, THE SAME BEING ADDITIONAL TO THE ISSUE OF SEVEN MILLION ONE HUNDRED SIXTY-SIX THOUSAND DOLLARS PAR VALUE OF BONDS HERETOFORE AUTHORIZED BY THE RAILROAD COMMISSION OF CALIFORNIA.

Application No. 9136.

Decided July 11, 1923.

*P. R. Ferguson*, for Applicant.

BY THE COMMISSION.

## OPINION.

The Southern Sierras Power Company asks permission to issue and sell, at not less than 85 per cent of face value and accrued interest, \$308,600 of its first and refunding mortgage Series "B" 6 per cent bonds due January 1, 1965, for the purpose of financing the cost of extensions, additions and betterments to its plants and properties.

A public hearing on the application was held by Examiner Fankhauser in San Francisco.

The Southern Sierras Power Company is engaged in generating, transmitting and distributing electric energy for power, lighting and other purposes in the counties of Inyo, Kern, San Bernardino, Riverside and Imperial. It reports its assets and liabilities, as of April 30, 1923, as follows:

*Assets and Other Debit Items:*

Fixed capital .....		\$9,270,855 93
Current assets—		
Cash .....	\$67,450 86	
Notes receivable .....	16,493 84	
Accounts receivable .....	173,012 80	
Interest receivable .....	100 72	
Marketable securities .....	1,158 28	
Materials and supplies .....	379,694 19	
Other accounts .....	5,343 73	
Total current assets .....		643,254 42
Intercompany accounts .....		1,644,118 88
Special deposits—		
For redemption of bonds .....	\$208 41	
For paying bond coupons .....	1,800 00	
Total special deposits .....		2,008 41
Deferred debits—		
Discount on bonds .....	\$733,244 33	
Discount on stock .....	4,995,350 00	
Prepayments .....	2,756 40	
Total deferred debits .....		5,731,350 73
Total assets and other debit items .....		\$17,291,588 37

*Liabilities and Other Credit Items:*

Capital stock—common .....	\$5,000,000 00
Bonded debt—	
First mortgage G's due 1936.....	\$2,528,000 00
First and refunding G's due 1965.....	4,508,000 00
Coachella Valley Ice and Development Co. G's.....	300,000 00
Total bonded debt .....	7,336,000 00
Advances from affiliated companies.....	500,000 00
Current liabilities—	
Accounts payable .....	\$103,370 17
Consumers' deposits .....	10,414 57
Taxes accrued .....	68,354 85
Interest accrued .....	157,545 00
Miscellaneous .....	1,726 20
Total current liabilities.....	341,410 79
Intercompany accounts .....	2,961,040 41
Deferred credits—	
Consumers' advances for construction.....	\$131,726 70
Miscellaneous .....	1,886 80
Total deferred credits.....	133,613 50
Reserves—	
Depreciation .....	\$571,328 57
Sinking fund reserves.....	240,653 71
Other reserves .....	72,761 55
Total reserves .....	884,743 83
Corporate surplus .....	134,779 84
Total liabilities and other credit items.....	\$17,291,588 37

The company reports that subsequent to March 1, 1922, and prior to December 31, 1922, it expended for additions and betterments the sum of \$568,071.06, of which \$363,075.35 has not been used as a basis for the certification of bonds. It is to finance in part the cost of the additions and betterments that applicant now asks permission to issue and sell \$308,600 of bonds. It is reported that arrangements have been made to sell the bonds for 85 per cent of their face value. We believe that the company should realize at least 88 per cent of their face value and accrued interest.

**ORDER.**

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered,* that the Southern Sierras Power Company be and it is hereby authorized to issue and sell, at not less than 88 per cent

of their face value plus accrued interest, \$308,600 of its first and refunding mortgage 6 per cent bonds due January 1, 1965, and to use the proceeds to finance in part the cost of the extensions, additions and betterments referred to in the foregoing opinion and through such financing pay outstanding indebtedness.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue and sell bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$309, and will expire on December 15, 1923.

Dated at San Francisco, California, this eleventh day of July, 1923.

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DECISION No. 12335.

IN THE MATTER OF THE APPLICATION OF GENERAL GRANT PARK  
TELEPHONE COMPANY FOR PERMISSION TO ISSUE AND SELL  
SHARES OF ITS CAPITAL STOCK.

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Application No. 9176.

Decided July 13, 1923.

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*Farnsworth, McClure and Burke, by D. F. Maddox, for Applicant.*

*SHORE, Commissioner.*

**OPINION.**

General Grant Park Telephone Company asks permission to issue \$25,250 par value of common capital stock. It intends to sell \$18,500 of the stock for cash at par and deliver \$6,750 of the stock to H. P. Harralson in payment for the services and properties hereafter mentioned.

The Railroad Commission, by Decision No. 11837, dated March 28, 1923, in Application No. 7627, declared that public convenience and necessity required the construction, maintenance and operation of a telephone line from Dinuba to General Grant National Park. It authorized H. P. Harralson to undertake the construction of the line. It is of record in this proceeding that H. P. Harralson has obtained, or has definite assurances that he can obtain, all the necessary rights of way over private lands; that he has a permit from the Bureau of

Forestry of the United States to cross public land in Sequoia National Forest; that he has a permit from the Department of the Interior of the United States to construct, operate and maintain a telephone line inside General Grant National Park with a toll station at park headquarters, and that he has obtained a twenty-year lease to maintain four telephone wires on the poles of the Orosi Farmers Exchange Number One.

H. P. Harralson and his associates have caused General Grant Park Telephone Company to be organized with an authorized capital stock of \$50,000 divided into 1000 shares of \$50 each. He has agreed to transfer to the corporation in exchange for \$6,750 of stock all of the aforementioned rights and permits and to undertake to sell for cash at par net to the company \$18,500 of the company's stock.

Counsel for applicant has agreed to file with the Commission certified copies of the description of the rights of way and certain information relating to the property, rights and permits which H. P. Harralson has agreed to transfer to the corporation. When the description of the rights of way and other information is filed with the Commission, the Commission will, by supplemental order, determine how much stock should be issued by applicant to H. P. Harralson in exchange for the properties, rights, permits and services in question.

The testimony shows that about 65 per cent of the construction work has been completed. All surveys have been made, all holes dug and twenty-one miles of wire strung. All material has been purchased excepting switchboards and telephone instruments. To date \$12,500 has been expended for labor and materials. It is estimated that it will cost approximately \$5,000 more to complete and equip the telephone line.

The testimony of H. P. Harralson shows that those who have advanced money for paying the cost of constructing the line will accept stock of applicant at par in liquidation of their advances. To liquidate such advances and to provide itself with necessary cash to pay the cost of completing and equipping the line, applicant asks permission to issue and sell at par \$18,000 of its common capital stock. In addition it asks authority to issue and sell at par \$500 of stock to provide itself with working capital.

I believe that the Commission should at this time authorize applicant to issue and sell \$18,500 of stock, and therefore submit the following form of order:

#### ORDER.

General Grant Park Telephone Company having applied to the Railroad Commission for permission to issue \$25,250 of its common capital

stock, a public hearing having been held, and the Railroad Commission being of the opinion that the issue and sale of \$18,500 of such stock should be forthwith authorized and that the money, property or labor to be procured or paid for by such issue of stock is reasonably required by applicant;

*It is hereby ordered,* that General Grant Park Telephone Company be and it is hereby authorized to issue and sell for cash, at not less than par net, to the applicant \$18,500 of common capital stock and use \$18,000 of the proceeds, or such part thereof as may be necessary, to pay the cost of building and equipping the telephone line from Dinuba to General Grant National Park referred to in this application, and use \$500 of the proceeds obtained from the sale of stock for working capital. Any part of the \$18,000 not necessary to build and equip the telephone line described in this application shall be used only for such purposes as the Railroad Commission will authorize by supplemental order or orders.

The authority herein granted is subject to further conditions as follows:

1. General Grant Park Telephone Company shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue stock will become effective upon the date hereof and will expire on December 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1923.

## DECISION No. 12336.

IN THE MATTER OF THE APPLICATION OF EARL STEPHENS FOR AN ORDER AUTHORIZING THE OPERATION OF THE "PEIRANO AND STEPHENS" TELEPHONE LINE EXTENDING FROM MURPHY TO ANGELS CAMP, AS A SUBURBAN LINE AND TO DISCONTINUE OPERATION OF THE SAME AS A TOLL LINE.

Application No. 8825.

Decided July 13, 1923.

BY THE COMMISSION.

## ORDER.

Earl B. Stephens is the sole owner of a telephone line known as the "Peirano and Stephens" line which extends from the town of Murphy via Douglas Flat and Vallecito to Angels Camp, a distance of about eight miles. This line is operated as a toll line to The Pacific Telephone and Telegraph Company's exchange at Angels Camp.

There are both toll and local exchange stations on the line and the revenue therefrom is insufficient to properly maintain it in proper condition to give adequate service due in a great measure to applicant's inability to supervise the operation of the line as a toll line. It further appears that in competition with the "Peirano and Stephens" line is a suburban line known as "Manuel" line which extends from Murphy via the "Grade road" to Angels Camp.

Applicant desires to convert his line from a toll to a suburban line and to make a charge of \$1.75 per month for each subscriber, setting forth that he will thereby eliminate discrimination and be enabled to secure sufficient revenues to properly maintain the line. Accompanying the application is a petition signed by the subscribers affected in which they agree to the change in the method of operation of the line.

The Commission, after consideration of the facts above stated, being of the opinion that this is a matter in which a public hearing is not necessary, and that the interests of the public will be properly served by the granting of this application;

*It is hereby ordered*, that Earl B. Stephens be and he is hereby authorized to operate the "Peirano and Stephens" line as a suburban line and to discontinue its operation as a toll line on and after August 1, 1923, and to file with the Railroad Commission on or before July 31, 1923, a rate for suburban service of \$1.75 per month to become effective for service rendered on and after August 1, 1923.

Dated at San Francisco, California, this thirteenth day of July, 1923.

## DECISION No. 12357.

IN THE MATTER OF THE APPLICATION OF CHAS. D. BOYNTON, INDIVIDUALLY, AND CHAS. D. BOYNTON AND GEO. H. SPOONER, AS COPARTNERS, BOTH DOING BUSINESS UNDER THE FICTITIOUS FIRM NAME AND STYLE OF BOULEVARD EXPRESS AND BOULEVARD EXPRESS, INCORPORATED, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN EXPRESS SERVICE FOR INTERMEDIATE POINTS BETWEEN SAN DIEGO, CALIFORNIA, AND LOS ANGELES, CALIFORNIA.

## Application No. 5658.

IN THE MATTER OF THE APPLICATION OF COAST TRUCK LINE, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A FREIGHT AUTO TRUCK SERVICE BETWEEN SAN DIEGO AND LOS ANGELES AND RIVERSIDE AND INTERMEDIATE POINTS; ESCONDIDO AND LOS ANGELES AND INTERMEDIATE POINTS; ESCONDIDO AND RIVERSIDE AND INTERMEDIATE POINTS; AND A SERVICE BETWEEN ALL OF SAID POINTS.

## Application No. 7534.

Decided July 13, 1923.

*Warren E. Libby and Harry N. Blair*, for Applicants in Application No. 5658.

*Warren E. Libby*, for M. C. Stokes and "Boulevard Express" as protesting the Application No. 7534 between San Diego and Coronado under Decision No. 9687 made upon Application No. 7080.

*H. J. Bischoff*, for Applicant in Application No. 7534 and as protesting the Application No. 5658.

*Harry N. Blair*, for Hodge Transportation Company, as protesting the Application No. 7534.

*E. T. Lucey*, for The Atchison, Topeka and Santa Fe Railroad Company, Protestant.

*B. J. Cross*, for the Southern Pacific Company, Protestant.

*A. E. Norrbom*, for the Pacific Electric Railway, Protestant.

*K. F. Beyerle*, for Murrietta Valley Motor Freight Line, Protestant.

*M. Thompson and T. A. Woods*, for the American Railway Express, Protestant.

BY THE COMMISSION.

## OPINION.

Charles D. Boynton, individually, and Charles D. Boynton and George H. Spooner, as copartners, both doing business under the firm name and style of Boulevard Express and Boulevard Express, Incorporated, in accordance with their application amended at the hearing, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by said Boulevard Express, Incorporated, a corporation, of an automobile truck service as a common carrier of northbound freight and express between San Diego and all points intermediate to and between Oceanside and Los Angeles, neither inclusive, including Serra, San Juan Capistrano, Irvine, Tustin, Santa Ana, Anaheim, Buena Park, Norwalk; also northbound freight and express between all points between Del Mar and

Oceanside, both inclusive, including Del Mar, Cardiff, Encinitas, Carlsbad, Oceanside and all points between Serra and Los Angeles, both inclusive; and as a common carrier of southbound freight and express between Los Angeles and all points between San Juan Capistrano and Del Mar, both inclusive; also southbound freight and express between all points between Norwalk and Irvine, both inclusive, and all points between San Juan Capistrano and San Diego, both inclusive.

Applicant proposes to charge rates and to operate on a time schedule and over a route in accordance with amended exhibits "A" and "B" attached to said application, using as equipment that which is set out on page two of said amended application filed August 23, 1922, with this Commission.

Coast Truck Line, a corporation, has petitioned the Railroad Commission, in accordance with its application amended at the hearing, for an order declaring that public convenience and necessity require the operation by it of an automobile truck service as a common carrier of freight between San Diego and Los Angeles and all intermediate points between San Diego and Tustin, over the state and county highways, by way of Del Mar, Encinitas, Carlsbad, Oceanside, San Juan Capistrano, Irvine, Tustin, Santa Ana, Anaheim, Fullerton, Norwalk, Telegraph road and Stevenson avenue; between San Diego and Riverside, over state and county highways, by way of Oceanside, Bonsall and Fallbrook; between San Diego and Escondido, by way of Oceanside, over state and county highways; between Escondido and Los Angeles by way of San Marcos, Vista and Oceanside, and by way of San Marcos, Bonsall and Oceanside, over the state and county highways; and between Escondido and Riverside by way of San Marcos, Bonsall and Fallbrook, and by way of San Marcos, Vista, Oceanside and Fallbrook. Also to receive freight for shipment from all points over the said route from San Diego to Los Angeles and within three miles on each side thereof between Los Angeles and Tustin for delivery to all points between San Diego and Tustin (not including Tustin); to receive freight for shipment from all points on the route from San Diego to Los Angeles and within three miles on each side thereof between San Diego and Tustin for delivery to all points between Los Angeles and Tustin (not including Tustin); to receive freight for shipment from all points on the route from Escondido to Los Angeles and within three miles on each side thereof between Escondido and Tustin by way of San Marcos and Vista and by way of San Marcos and Bonsall, for delivery to all points between Los Angeles and Tustin (not including Tustin); to receive freight for shipment from all points on same route and within three miles on each side thereof between Los Angeles and Tustin for delivery to all points between Escondido and Tustin (not including Tustin); to



receive freight for shipment from and to all points on the said route from San Diego to Riverside and from there to within three miles on each side thereof, provided, however, that no local service will be furnished between Elsinore and Temecula; to ship freight received on the route from San Diego to Los Angeles and the route from Escondido to Los Angeles for delivery on the route from San Diego to Riverside; and to ship freight received on the route from San Diego to Riverside for delivery on the route from San Diego to Los Angeles and the route from Escondido to Los Angeles; and to receive freight from and deliver freight to East San Diego, National City and Coronado, to and from all points, except San Diego, now served and proposed to be served by applicant; and also to receive and deliver freight within a radius of five miles of the cities of Escondido, Oceanside and Fallbrook.

Applicant proposes to charge rates and to operate on a time schedule in accordance with exhibits "A" and "B" attached to said amended application, using as equipment that which is shown in exhibit "C" attached to said amended application.

Public hearings on the above named applications were conducted before Examiner Satterwhite at San Diego and Los Angeles. The matters were submitted and are now ready for decision. Said applications were consolidated for the purpose of receiving evidence and decision.

The Southern Pacific Company, American Railway Express, Atchison, Topeka and Santa Fe Railroad Company, Pacific Electric Railway Company and K. F. Beyerle appeared in opposition to both applications. Each of the above named applicants protested the granting of the application of the other. M. C. Stokes, Escondido Truck Line and the Hodge Transportation Company protested the granting of the application of the Coast Truck Line. By reason of certain stipulations made by each of said applicants, the Southern Pacific Company, the Pacific Electric Railway Company, Escondido Truck Line and K. F. Beyerle withdrew as protestants.

Charles D. Boynton at the time of filing the above named application was the owner and operator of an automobile freight franchise for the transportation of freight between the cities of Los Angeles and San Diego, serving as intermediate points the city of Vernon and the military reservation at Camp Kearny, also receiving perishable freight and express in agricultural communities between San Diego and Carlsbad under authority conferred by Decision No. 6588 of this Commission made upon application No. 4754.

Charles D. Boynton and George H. Spooner at the time of filing the above named application constituted a partnership doing business under the name of "Boulevard Express," and owned the equipment used in

the operation of said franchise held individually by Charles D. Boynton. The Boulevard Express, Incorporated, is a corporation composed of Charles D. Boynton, George H. Spooner and Warren E. Libby, organized for the purpose of taking over and operating the business of said Charles D. Boynton and the partnership of Charles D. Boynton and George H. Spooner.

During the pendency of these instant proceedings, the transfer of the said operative rights of said Charles D. Boynton to the Boulevard Express, Incorporated, was authorized, as shown by the record and decision in Application No. 8156, and said corporation is now operating the service above indicated under this franchise right.

The Coast Truck Line is now operating an authorized motor truck service between San Diego and Oceanside and intermediate points; and between Oceanside and Riverside and intermediate points, except a local service between Elsinore and Temecula; and between Escondido and Los Angeles via Oceanside, serving intermediate points only between Oceanside and Escondido.

The record shows that seventy-five witnesses testified during the course of these proceedings in support of the additional operations proposed by both applicants. It will not be necessary nor advisable to review in detail but a portion of the testimony in the record showing the need for additional service proposed in each application.

The evidence shows first of all that the territory between Santa Ana and Oceanside is in need of motor truck service. The merchants, restaurant owners, garage operators and business men in various enterprises in the communities of Tustin, Irvine, San Juan Capistrano, Serra and other points in this particular section desire and have requested of one or the other of said applicants a freight truck service. It appears that these merchants and business men buy their goods, wares and merchandise, both perishable and otherwise, not only from Los Angeles and Santa Ana, but from the other buying centers intermediate thereto. San Diego and Oceanside also are purchasing centers for these intermediate communities. This territory between Santa Ana and Oceanside is also a large farming territory. The Irvine Company, which owns a ranch of 100,000 acres south of Tustin, has leased to many farmers small tracts where all kinds of vegetables are grown and marketed at Los Angeles and way points. These farmers buy their supplies also from merchants and dealers at Santa Ana and Los Angeles and other intermediate points thereto, as well as Oceanside and San Diego.

It appears, however, that the volume of freight of all kinds which moves into and out of the territory between Santa Ana and Oceanside is more or less limited when compared with the heavy freight traffic,

both through and intermediate, which moves from other sections on the route between San Diego and Los Angeles. The great majority of witnesses who testified in support of the proposed additional service of the Coast Truck Line show that there is an immense volume of through freight transported from Los Angeles to San Diego and from San Diego to Los Angeles, and that the very large tonnage now transported is the result of both commercial and industrial progress at the terminals and the rapid agricultural development within the last three years all along the route traversed.

The record shows that this large tonnage, now moved by both applicants, will continue to increase rapidly.

Representatives from a very large number of the leading and well known business firms in both Los Angeles and San Diego appeared as witnesses and testified to the necessity of additional operations of both applicants on the basis that the demands of the freight traffic now moving justified both lines. The kind and character of general freight now moved between these two of the largest cities in California consists of about every conceivable thing in the way of goods, wares and merchandise which are handled by grocers, dry goods and hardware merchants, furniture dealers, druggists, machine shops, garages, contractors and manufacturers of all kinds. It appears that there are at least fifteen wholesale produce merchants doing a large and lucrative business in San Diego.

Many of the shippers, both wholesale and retail, merchants and dealers who patronize the Coast Truck Line are new shippers and have not been patrons of the Boulevard Express, and many dealers have used both lines, and most of these testified that the freight traffic justified both lines.

Although the record shows that most of the present patrons of each applicant are satisfied with the adequacy of the service rendered, there was considerable evidence introduced by the Coast Truck Line showing many complaints against the Boulevard Express by former shippers of both general and perishable freight over its line. The complaints embraced generally instances of delay in pick-ups and delivery at San Diego and Los Angeles, together with actual failures and delays in picking up perishable freight between Del Mar and Carlsbad. The Commission has not been unmindful of these complaints in its conclusions upon the matters before it.

The evidence shows that the territory between Del Mar and Oceanside is a vegetable district and that the growth and development of this particular section have been very rapid and extensive in the last three or four years, and that the tonnage of all kinds of vegetables transported to Los Angeles and other intermediate points has been immense and at

the present time this fertile section is but half developed. Although but two or three crops have been raised heretofore annually, the farmers throughout this section are now preparing to increase and diversify their production. It was shown by the Coast Truck Line that in the Carlsbad section alone the increase in acreage of vegetables of all kinds has grown from forty acres to one thousand acres in the last three years.

There are at least seventy-five farmers growing vegetables in the territory between Del Mar and Oceanside who have endorsed and requested the proposed additional service of the Coast Truck Line and have expressed their belief that the great and ever increasing tonnage shipped out of and into this district fully justifies the operations of two motor truck lines. The volume of freight business now transported by each of said applicants is about equal. The record shows that the Coast Truck Line, in accordance with its exhibit "6," transported between Los Angeles and San Diego from July 1, 1921, to July 1, 1922, 9464 tons, which does not include the total local tonnage carried between Oceanside and San Diego, and Escondido and Los Angeles, amounting to 2771 tons. In the succeeding year it appears that the Coast Truck Line carried a still larger tonnage. The volume of business of the Boulevard Express has also materially and rapidly increased in the last two or three years, it appearing that in January, 1920, it carried about 500 tons and in January, 1923, about 800 tons, and a similar and substantial increase in tonnage carried by this applicant has developed in other months of each succeeding year.

Four petitions are in evidence endorsing and requesting that the proposed additional service of the Coast Truck Line be authorized, which are signed by many shippers at Los Angeles, San Diego and in the territory between Del Mar and Oceanside and other intermediate points.

The Coast Truck Line showed without any contradiction from any of said protestants that it has innumerable requests to ship supplies into and perishable and general freight out of the farming and vegetable country lying between Oceanside and Fallbrook and Riverside and between Oceanside and Escondido either from or to San Diego and Los Angeles and the territory between Del Mar and Oceanside. It appears also that there are produce and agricultural shippers on the proposed alternate routes by way of Bonsall and by way of Vista who ship to Los Angeles and other points proposed to be served. It was also shown that the farming territory within five miles of Escondido, Oceanside and Fallbrook is in need of a pick-up and delivery service for the importation of supplies and the exportation of its products. National City, East San Diego and Coronado are immediately adjacent to San Diego and constitute generally part of the San Diego community district, and their transportation needs as shown by the evidence are

primarily a matter of pick-up and delivery of freight that originates north of the city limits of San Diego, or is to go beyond the city limits of San Diego. Coronado, however, is now adequately served by the authorized local freight line of M. C. Stokes.

The Atchison, Topeka and Santa Fe Railway Company offered testimony respecting its local freight service between San Diego and Los Angeles which indicates that daily merchandise cars are operated out of San Diego at 8 a.m. for through freight, and at 9 p.m. for intermediate service, and that consignments shipped one day are delivered to consignees the next day.

The American Express Company introduced in evidence its schedule of rates and schedules of train service between Los Angeles and San Diego. The record shows that this protestant renders no pick-up and delivery service between Santa Ana and San Diego.

The testimony shows that the shippers demand the direct and faster pick-up and delivery service of the motor trucks, and that the rail carriers do not meet all the needs of these communities proposed to be served.

After a very careful consideration of all the evidence in these proceedings, we are of opinion and hereby find as a fact that the public necessity and convenience require the additional intermediate service proposed by said Boulevard Express, Incorporated, and its application, as amended should be granted.

We are also of the opinion and hereby find as a fact that the public necessity and convenience require the additional through service, as well as a part and portion of the additional intermediate service proposed by said Coast Truck Line, and the following order herein will direct and authorize specifically an enlargement and extension of operative rights of each of said applicants.

#### ORDER.

Public hearings having been held in the above entitled applications, the matters having been submitted and being now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require the operation by Boulevard Express, Incorporated, a corporation, of an automobile truck service as a common carrier of northbound freight and express between San Diego and all points intermediate to and between Oceanside and Los Angeles, neither inclusive, including Serra, San Juan Capistrano, Irvine, Tustin, Santa Ana, Anaheim, Buena Park, Norwalk; also northbound freight and express between all points between Del Mar and Oceanside, both inclusive, including Del Mar, Cardiff, Encinitas, Carlsbad, Oceanside and all points between Serra and Los Angeles, both inclusive; and as a common carrier of southbound freight and express between Los Angeles

and all points between San Juan Capistrano and Del Mar, both inclusive; also southbound freight and express between all points between Norwalk and Irvine, both inclusive, and all points between San Juan Capistrano and San Diego, both inclusive.

*It is hereby ordered,* that a certificate of public convenience and necessity be and the same hereby is issued to Boulevard Express, Incorporated, a corporation, covering the above described route and in accordance with the following conditions:

1. The operative rights and privileges hereby authorized shall not be transferred, leased, sold or assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under contract or agreement satisfactory to the Railroad Commission.

3. Boulevard Express, Incorporated, a corporation, within twenty days from date herein shall file with the Railroad Commission its schedule and tariffs covering said proposed service, which is to be in addition to the proposed schedules and tariffs accompanying the application, and shall set forth the date upon which the operation of the service hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operations is extended by formal supplemental order.

The Railroad Commission hereby declares that public convenience and necessity require the operation by Coast Truck Line, a corporation, of an automobile truck service as a common carrier of freight between Los Angeles and San Diego; also between all points between Del Mar and Oceanside, both inclusive, and Los Angeles; also between San Diego and Riverside by way of Oceanside, Bonsal and Fallbrook; also between San Diego and all points between Oceanside and Escondido, not including Escondido; also between Escondido and Los Angeles by way of San Marcos, Vista and Oceanside, and by way of San Marcos, Bonsall and Oceanside; and also between Escondido and Riverside by way of San Marcos, Bonsall and Fallbrook and by way of San Marcos, Vista, Oceanside and Fallbrook; provided, however, that the authority hereby conveyed does not include any authorization for the transportation of property between intermediate points between Los Angeles and Oceanside, nor between points hereinabove mentioned which are south and east of Oceanside and intermediate points between Los Angeles and Oceanside; and provided, further, that said applicant, Coast Truck Line, shall have authority to pick up and deliver freight within three miles on each side of the highway in connection with the service herein authorized; and provided, further, that applicant shall have authority

to receive freight for shipment from and to all points now served by said applicant under the authority of this Commission over its existing routes between San Diego and Oceanside and Riverside, except that no local service shall be rendered between Elsinore and Temecula; provided, further, that applicant shall have authority to ship freight received on the San Diego to Los Angeles route and the Escondido to Los Angeles route herein authorized for delivery on the San Diego to Riverside route herein authorized, and to ship freight received on the San Diego to Riverside route for delivery on the San Diego to Los Angeles route and the Escondido to Los Angeles route herein authorized; provided, further, that applicant shall have authority to pick up and deliver freight within a radius of five miles of Escondido, Oceanside and Fallbrook; and provided, further, that applicant shall have authority to receive freight from and deliver freight to East San Diego and National City to and from all points, except San Diego, herein authorized to be served by said applicant.

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is issued to Coast Truck Line, a corporation, covering the above described route and in accordance with the following conditions:

1. The operative rights and privileges hereby authorized shall not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

2. No vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under contract or agreement satisfactory to the Railroad Commission.

3. Coast Truck Line, a corporation, shall within twenty days from date herein file with the Railroad Commission its schedule and tariffs covering said proposed service, which is to be in addition to the proposed schedules and tariffs accompanying the application, and shall set forth the date upon which the operation of the service hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operations is extended by formal supplemental order.

Dated at San Francisco, California, this thirteenth day of July, 1923.



## DECISION No. 12359.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA, ARIZONA AND SANTA FE RAILWAY COMPANY, A CORPORATION, AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, FOR PERMISSION TO ABANDON THAT PORTION OF THE LINE OF RAILROAD OWNED BY THE FORMER AND OPERATED BY THE LATTER, EXTENDING FROM GOFFS, CALIFORNIA, TO THE CALIFORNIA-NEVADA BOUNDARY LINE AND BEING A PORTION OF THE BARNWELL BRANCH.

Application No. 8305.

Decided July 17, 1923.

*E. W. Camp*, for Applicants.

*F. R. McNamee*, for the Duplex Mining Company, a corporation; Searchlight Supply Company, a corporation; James Cashman, doing business under the fictitious name of Searchlight Garage; Non-Metallic Minerals Corporation; and numerous other residents of Clark County, Nevada; and certain property owners of Lanfair, San Bernardino County, California, Protestants.

*G. A. Duncan*, for the El Dorado-Flagstaff Mining and Milling Company and the El Dorado Grande Mining Company of Nelson, Nevada, Protestants.

*H. F. Coora*, for owners of clay deposits at Hitt, Protestants.

*J. J. Prendergast*, *in propria persona*, Protestant.

*J. T. Hawkins*, for the Joseph Wharton Estate, Protestant:

BY THE COMMISSION.

## OPINION.

The Atchison, Topeka and Santa Fe Railway Company, a corporation, and the California, Arizona and Santa Fe Railway Company, a corporation, jointly petition the Railroad Commission for an order authorizing the abandonment and the taking up and removal of that portion of its Barnwell branch which is located within the State of California and extends from Goffs, California, to the California-Nevada boundary line.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicants allege that the line proposed to be abandoned is owned by the California, Arizona and Santa Fe Railway Company, and is operated by the Atchison, Topeka and Santa Fe Railway Company under the provisions of a lease dated March 1, 1912; that until the year 1909 a daily train service was operated between Goffs, California, and Searchlight, Nevada, but since that time a service of one round trip per week has been more than adequate to care for the business offering; that the present physical condition of the line is poor, large expenditures being necessary to rehabilitate track and especially bridges; that the line is constantly exposed to flood conditions which necessitate large expenditures for maintenance and repair; that the revenues derived from operation are insufficient to defray the cost of operation,



maintenance and taxes and leave no surplus for interest on the investment or for emergency.

The Duplex Mining Company, a corporation, filed its formal protest at the hearing, alleging that the jurisdiction of the Commission did not extend to a determination of the issues presented in this proceeding; that the line proposed to be abandoned is an interstate railroad, owned by a California corporation and operated under lease by a Kansas corporation, and in said operation was engaged in interstate and foreign commerce; that the branch line proposed to be abandoned is operated as a part of the system of the Atchison, Topeka and Santa Fe Railway Company, which is engaged in interstate and foreign commerce; that jurisdiction to determine the question of abandonment and to grant the authority herein sought is vested exclusively with the Interstate Commerce Commission by the provisions of the so-called Transportation Act as passed by the Congress of the United States on February 28, 1920, (paragraphs 18, 19 and 20 of section 1 of the Act to Regulate Commerce, Statutes at Large, 456, 477, section 402).

We have given careful consideration to the protest based on alleged want of jurisdiction and to the authorities cited in support thereof. It is our conclusion that this Commission is vested with jurisdiction to pass on the issues herein presented. Applicants have sought in this proceeding only such authority as may be necessary to abandon and remove trackage located wholly within the State of California and over which traffic, both interstate and intrastate, has moved. The volume of interstate traffic and the facilities provided therefor as regards the State of California are matters solely under the jurisdiction of this Commission. The record in this proceeding indicates that appropriate application has already been made to the Public Service Commission of the State of Nevada for cessation of operation and abandonment of the portion of the branch line of railroad within that state and that appropriate application is also to be made to the Interstate Commerce Commission. The authority of each regulatory body is requisite before the abandonment and removal of the trackage can be legally accomplished, each regulatory body having certain exclusive jurisdiction, and the fact that applicants have elected to first present their request for authority as regards the abandonment of the trackage located in the State of California does not preclude this Commission from the exercise of its jurisdiction and from passing on the merits of the application herein presented in so far as same have to do with traffic, operating and other conditions surrounding the intrastate operation in California.

The portion of the line located in the State of California is 41.65 miles in length and extends from the station of Goffs, the junction with the main line of the Atchison, Topeka and Santa Fe Railway Company

to the California-Nevada boundary, serving the intermediate stations at Vontrigger, Blackburn, Lanfair, Ledge, Purdy, Barnwell, Hitt and Juan. The line extends to its terminus at Searchlight, Nevada, a distance of 11.60 miles from the California-Nevada boundary. The stations in California are located at points where sidings or spur tracks have been installed or where stops have seemed necessary. The stations, so-called, consist of stopping points at which station signboards have been erected.

Mr. J. A. Christie, superintendent of the Arizona division of the Atchison, Topeka and Santa Fe Railway Company, testified that he was in charge of the maintenance and operation of the Searchlight branch; that in the year 1913 a service of six trips per week was operated, and that in 1916 the service was reduced to two round trips per week; at the present time a service of one round trip is operated on Friday of each week, all service being rendered by the use of mixed trains. A force of eight men is employed in track maintenance on this branch, but the track is in poor operative condition, especially as to bridges. Some ten miles of track is practically inoperative where embankments have been swept away by flood waters and where openings have been cribbed up following flood damage, in lieu of permanent repairs by rebuilding embankments or bridge and culvert structures. It is the present practice to have a motor car and gang of men precede each train operated to inspect the track and make such emergency repairs as may be necessary to insure safe operation.

Other witnesses for the applicants testified as to the physical condition of the line, the roadbed, track, bridges and culverts; the maintenance and amounts estimated necessary as expenditures to place the line in safe operative condition; the cost of operation; the revenue received from operation and the tonnage of freight handled and revenue derived therefrom. It appears from the testimony of these witnesses and from exhibits filed herein that the revenue and operating costs for the year have resulted as follows:

Revenue—		
Freight -----	\$4,279 00	
Passenger -----	913 00	
Total -----		\$5,192 00
Operating expense—		
Maintenance -----	\$22,581 30	
Operation -----	13,767 65	
		\$36,348 95
Deficit -----		\$31,156 95

The expense shown above for maintenance does not include maintenance other than that actually necessary to provide for the operation of the limited amount of service now being operated over this branch.

line, it having been shown that from 20 to 30 per cent of the ties require immediate removal and that an expenditure of approximately \$45,000 is necessary for the restoration of embankments and protection work and for the renewal of bridges and culverts. The operating expenses as shown above cover only what might properly be termed minimum operating costs and include only the items of dispatching, station employees, station supplies and expenses, train and engine men, water for locomotives and engine house expense. No allowance has been made for other operating costs, maintenance of equipment, traffic or general expense, taxes or interest on investment in property devoted to this transportation service. The addition of these items, excluding interest on investment, would increase the expense of operation approximately six times the bare operating cost hereinabove shown.

The tonnage received from and forwarded to points off the branch line for the periods hereafter shown is as follows:

Year	1917	1918	1919	1920	1921
Pounds -----	11,034,032	10,110,156	7,289,042	5,737,996	2,970,768

The tonnage originating at and destined to points on the branch line for a similar period is as follows:

Year	1917	1918	1919	1920	1921
Pounds -----	193,369	4,185	3,949	6,493	2,550

The carload business handled over this branch for the calendar year 1921, exclusive of business destined to or shipped from Searchlight, Nevada, and which represents the business handled in the State of California, is as follows:

	Commodity	Weight	Revenue accruing to branch line
Received:			
	Hay -----	57,970	\$51 53
	Alfalfa meal -----	114,750	57 37
	Total -----	172,720	\$108 90
Forwarded:			
	Clay -----	88,700	\$257 45
	Empty tanks -----	26,700	37 98
	Ore -----	42,000	17 28
	Total -----	157,400	\$312 71
Total—Received and forwarded-----		330,120	\$421 61

The granting of this application is protested by mining companies operating at Searchlight and in the Eldorado mining district in Clark County, Nevada (about 22 miles from the terminal of the branch line at Searchlight), by parties developing agricultural property at Lanfair, California, and operators of clay and rock deposits with shipping points at the stations of Hitt and Vontrigger, California.

The tonnage estimated for the mining properties in the Eldorado mining district and contingent upon the resumption of mining activity in such district is estimated by witnesses for the protestants to be 5 tons per day inbound and outbound shipments of 8 tons per month of ore concentrates and  $1\frac{1}{2}$  tons of cyanide products of \$10 per ton valuation. The mines at Searchlight offer no immediate tonnage of consequence, either inbound or outbound. Shipments from the California stations show a movement of 27 cars of clay from Hitt during the year 1922 and of 28 cars of red mineral rock from Vontrigger during the same period. The red rock moves to Los Angeles, where it is crushed and pulverized and used as a material for roofing.

We have carefully considered the evidence and exhibits presented in this proceeding and are of the opinion and hereby find as a fact that the continued operation of the Searchlight branch by the Atchison, Topeka and Santa Fe Railway Company in so far as the traffic offering to or from California points either at the present time or in the near future does not justify the continuance of operation nor the excessive maintenance necessary to rehabilitate the track embankments, bridges and culverts and that the continued operation and maintenance of this branch places an undue burden on the portions of the line in California which are used by the shipping public and who are thereby contributing to the amount necessarily expended on a branch line that is unable to develop revenue sufficient to meet the bare cost of operation on a basis of service as infrequent as one round trip per week.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order;

*It is hereby ordered*, that applicants herein be and they hereby are authorized to suspend operation on the Searchlight branch of the California, Arizona and Santa Fe Railway Company as operated by the Atchison, Topeka and Santa Fe Railway Company between the station of Goffs, California, and the California-Nevada state boundary line, and to cease operation as a common carrier over such portion of said line of railroad, provided, however, that this order shall not become effective until there shall have been filed herein a certified copy of an order or other appropriate form of authorization by the Interstate Commerce Commission permitting the abandonment and removal of this branch line of railroad between Goffs, California, and Searchlight, Nevada.

The Commission reserves the right to make such other and further orders in this proceeding as to it may appear just and proper or as the public convenience and necessity may require.

Dated at San Francisco, California, this seventeenth day of July, 1923.

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DECISION No. 12360.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO EXECUTE A CONTRACT CALLING FOR THE PAYMENT OF MONEY AT PERIODS OF MORE THAN TWELVE MONTHS AFTER THE DATE THEREOF.

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Application No. 9187.

Decided July 17, 1923.

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*Morrison, Dunne and Brobeck*, by *E. S. Taylor*, for Applicant.

BY THE COMMISSION.

OPINION.

The California-Oregon Power Company asks permission to make and execute an agreement with the United States of America covering the purchase of the Keno and Ankeny canals located in Klamath County, Oregon. The properties were offered for sale by the United States at public auction. Applicant was the successful bidder and agreed to pay for the properties \$120,620. A board of appraisers had fixed the minimum selling price at \$120,614.

The purchase price (\$120,620) is payable as follows:

- (a) Five thousand dollars upon the execution of the agreement of sale;
- (b) Four per cent of the purchase price on July 1st of each of four successive years beginning with the year 1924;
- (c) Fourteen per cent of the purchase price on July 1st of each of five successive years beginning with the year 1928; and
- (d) The remainder thereof on July 1, 1933.

No interest need be paid by applicant on the deferred payments.

The intake of the two canals which applicant intends to acquire forms part of the Link River dam constructed by applicant. The acquisition of the canals will enable applicant to install additional hydro-electric plants having a generating capacity of about 6000 kilowatts. It is of record that the growth of applicant's business in Klamath Falls, Oregon, makes it advisable for applicant to construct additional generating plants and utilize the two canals which it will acquire from the United States Government.

**ORDER.**

The California-Oregon Power Company having applied to the Railroad Commission for permission to make and execute an agreement with the United States of America covering the purchase of the Keno and Ankeny canals described in this application, a public hearing having been held before Examiner Fankhauser and it appearing that applicant should be authorized to make and execute an agreement with the United States of America covering the purchase of the canals referred to in this application;

*It is hereby ordered*, that the California-Oregon Power Company be and it is hereby authorized to make and execute an agreement with the United States of America covering the purchase of the Keno and Ankeny canals described in this application, and to pay for such properties the sum of \$120,620 payable at times and in amounts as set forth in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act.
2. The consideration being paid by the California-Oregon Power Company for the properties described in this application shall not be urged before this Commission as a measure of the value of properties similarly situated for the purpose of fixing rates.

Dated at San Francisco, California, this seventeenth day of July, 1923.

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**DECISION No. 12368.**

IN THE MATTER OF THE APPLICATION OF J. D. MILLAR REALTY COMPANY, A CORPORATION, TO SELL THE WATER WORKS, DISTRIBUTING SYSTEM AND OTHER PROPERTY OWNED BY IT TO W. T. ESTEP AND TO ESTABLISH A RATE FOR THE SALE OF WATER FOR THE SAID WORKS.

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Application No. 9090.

Decided July 17, 1923.

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*Salzman and Kornblum* by *I. B. Kornblum*, for Applicants.  
*Frank Gillelen*, City Engineer, for City of Hawthorne.

BY THE COMMISSION.

**OPINION.**

In the above entitled matter J. D. Millar asks authority to sell the water works and distributing system supplying the residents of Fairfax Park Tract, Los Angeles County, to W. T. Estep, who joins in the application and who also desires a certificate of public convenience and necessity to operate the system as a public utility and the establishment of a rate for the sale of water.

A public hearing in this matter was held in Los Angeles before Examiner Williams. All interested parties had been duly notified thereof and given an opportunity to be present and to be heard.

It appears that this water system was installed in 1921 by J. D. Millar Realty Company to aid in the sale of lots in Fairfax Park Tract, and at the present time approximately 105 consumers are supplied without charge.

The system has become inadequate to serve the present consumers, and it is now the desire of W. T. Estep, who has purchased the system, to make the necessary improvements and to operate it as a public utility. A new well, a Layne-Bowler pump and 25,000-gallon redwood tank have been installed, and some of the distribution mains have been replaced by others of larger capacity.

Several people appeared and requested water service on two blocks within the boundary of the Fairfax Park Tract, but not served by the water system installed by the J. D. Millar Realty Company. Mr. Estep agreed to extend the system to these two blocks under rules and regulations acceptable to the Commission.

Mr. Gillelen, city engineer of Hawthorne, stated that the city of Hawthorne is taking steps to acquire or install a water system within the city limits, which embrace a portion of the Fairfax Park Tract. He stated, however, that it would be the policy of the city to acquire the existing water systems in so far as possible.

There is no other public utility supplying water in this vicinity and no one appeared to oppose the granting of the application. The rates requested are the same as those granted recently by the Commission in its Decision No. 12022 for water supplied by the North Moneta Garden Lands Company, operated by W. T. Estep in the vicinity, and are reasonable.

Careful consideration of the evidence submitted indicates that the interests of consumers will be best served by the transfer of the water system and that the application should be granted.

#### ORDER.

The J. D. Millar Realty Company, a corporation, having made application for authority to transfer to W. T. Estep a water system supplying residents of the Fairfax Park Tract, Los Angeles County, and the said W. T. Estep having joined in the application, and having also requested that he be granted a certificate of public convenience and necessity to operate the said system as a public utility, and that this Commission establish rates to be charged for the service rendered, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that W. T. Estep operate a water system for the purpose of supplying water to residents in Fairfax Park Tract, Los Angeles County; and

*It is hereby ordered*, that W. T. Estep be and he is hereby authorized to purchase from the J. D. Millar Realty Company, a corporation, a certain water system supplying residents in Fairfax Park Tract, Los Angeles County, and more particularly described in the application herein, upon the following conditions:

1. The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

2. The authority given herein shall apply only to such transfer as shall have been completed on or before October 1, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission by W. T. Estep within thirty (30) days from the date on which it is executed.

3. Within ten (10) days from the date on which J. D. Millar Realty Company, a corporation, actually relinquishes control and possession of the property herein authorized to be transferred, W. T. Estep shall file with this Commission a certified statement indicating the date upon which he acquired control and possession thereof.

*It is hereby further ordered*, that W. T. Estep be and he is hereby directed to file with this Commission within twenty (20) days from the date hereof the following schedule of rates to be charged for all water delivered to consumers in Fairfax Park Tract, Los Angeles County, after August 15, 1923:

*Monthly Flat Rates.*

1. For residences, tenements or boarding houses of five rooms or less-----	\$1 50
For each additional room-----	25
Additional for private barn or garage with not more than two horses or cows or one automobile-----	50
For each additional horse or cow-----	20
For each additional automobile-----	50
2. Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard -----	005

*Irrigation Rates.*

A flat rate per hour for water delivered through a two (2) inch hydrant attached to a four (4) inch main-----	\$0 75
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*Domestic Meter Rates.*

For 400 cubic feet of water or less-----	\$1 00
From 400 cubic feet to 1000 cubic feet, per 100 cubic feet-----	20
From 1000 cubic feet to 2000 cubic feet, per 100 cubic feet-----	15
All in excess of 2000 cubic feet, per 100 cubic feet-----	12



NOTE—Meters may be installed at the option of the consumer or the company. When a meter is installed at the request of a consumer, a deposit may be required, such deposit to be returned to the consumer as a credit on monthly bills at a rate of one twentieth (1/20) of the deposit per month. The following deposits may be required:

For $\frac{3}{4}$ -inch meter	-----\$15 00
For $\frac{1}{2}$ -inch meter	-----20 00
For 1-inch meter	-----25 00
For 1 $\frac{1}{2}$ -inch meter	-----45 00
For 2-inch meter	-----70 00

*It is hereby further ordered*, that W. T. Estep be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this seventeenth day of July, 1923.

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DECISION No. 12370.

IN THE MATTER OF THE APPLICATION OF THE COVE WATER COMPANY FOR AUTHORIZATION ORDER FOR ESTABLISHMENT OF METER RATES AT ORANGE COVE, CALIFORNIA.

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Application No. 9108.

Decided July 18, 1923.

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Dale A. Franc, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this proceeding the Cove Water Company, a public utility engaged in the production and delivery of water to consumers in Orange Cove, Fresno County, makes application for authority to install meters and for the establishment of meter rates.

The application alleges in effect that the installation of meters is necessary in order to prevent waste of water and thereby improve service to consumers.

A public hearing in this matter was held before Examiner Satterwhite at Orange Cove. All interested parties were duly notified and given an opportunity to be present and to be heard.

This water system was installed several years ago to aid in the sale of lots in the townsite, and consists of a twelve-inch well and an automatic electrically operated pumping unit which delivers the water into a 5000-gallon tank from whence it is distributed through mains of four-inch diameter and smaller to approximately 80 consumers.

At the present time the capacity of the plant is barely sufficient to provide for the demands of consumers who are all served at flat rates.

It is evident that the installation of meters will to a great extent prevent the waste of water which invariably occurs under a flat rate schedule, and will undoubtedly improve service conditions. The utility plans to place meters upon all new services as they are installed and to meter the services of present consumers as rapidly as possible.

The utility is now engaged in the preparation of plans for the production of an additional and more permanent water supply which will justify the installation of larger and more adequate equipment.

John Spencer, one of the Commission's hydraulic engineers, submitted a report at the hearing which was not questioned or controverted by the utility. A study of the figures contained in this report indicates that the schedule of meter rates desired by applicant will yield a greater rate of return than has been allowed by this Commission in proceedings of this character. The utility, however, expressed a willingness to accept any rates which the Commission might consider reasonable, and the schedule set out in the accompanying order has been designed to equitably distribute the cost of producing the supply and to yield sufficient revenue to cover maintenance and operation expense, depreciation annuity, and a reasonable return upon the fair value for rate fixing purposes of the property devoted to the public use.

#### ORDER.

The Cove Water Company having made application for authority to install meters and for the establishment of meter rates for water delivered to consumers in Orange Cove, Fresno County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by the Cove Water Company for water delivered to consumers in Orange Cove, Fresno County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion,

*It is hereby ordered*, that Cove Water Company be and the same is hereby directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates for water delivered to consumers in Orange Cove, Fresno County, subsequent to August 31, 1923:

#### *Monthly Meter Rates.*

From 0 to 500 cubic feet, per 100 cubic feet.....	\$0 25
From 500 to 3000 cubic feet, per 100 cubic feet.....	20
All over 3000 cubic feet, per 100 cubic feet.....	15

*Monthly Minimum Charges.*

For $\frac{5}{8}$ -inch meter	-----	\$1 50
For $\frac{3}{4}$ -inch meter	-----	2 50
For 1-inch meter	-----	4 00
For 1 $\frac{1}{4}$ -inch meter	-----	7 50
For 2-inch meter	-----	12 00
For 3-inch meter	-----	24 00
For 4-inch meter	-----	37 50

NOTE—Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum charge will purchase at the "monthly meter rates" as set out above.

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility the entire cost shall be borne outright by the utility. If installed at the option of the consumer the actual cost thereof shall be deposited by the consumer with the utility and the amount so deposited shall be returned to the consumer as credits on monthly bills for water consumed at the rate of 50 per cent of such monthly bills.

*Monthly Flat Rates.*

The present schedule of flat rate charges to continue in effect until such time as a meter is installed upon any present service.

*It is hereby further ordered*, that the Cove Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days of the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eighteenth day of July, 1923.

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DECISION No. 12375.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

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Application No. 9179.

Decided July 20, 1923.

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*James F. Pollard*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Coast Valleys Gas and Electric Company asks permission to issue and sell at not less than ninety per cent of their face value \$500,000 of its first mortgage 6 per cent forty-year bonds due March 1, 1952, for the purpose of financing the cost of extensions, additions and betterments to its plants and properties.

Coast Valleys Gas and Electric Company is engaged in the business of generating, purchasing and distributing electric energy for heating, lighting and power purposes in Monterey, Carmel, Pacific Grove, Salinas, King City, Soledad and in territory adjacent thereto. In addi-

tion, gas is manufactured and distributed by applicant in Monterey, Pacific Grove and Salinas. Applicant also operates water plants in Salinas and King City.

Coast Valleys Gas and Electric Company was organized on or about March 18, 1912. It has an authorized capital stock of \$3,500,000 consisting of \$3,000,000 of common, divided into 30,000 shares of the par value of \$100 each, \$500,000 of preferred, divided into 5000 shares of the par value of \$100 each. The preferred stock bears cumulative dividends at the rate of 6 per cent per annum and is redeemable at the option of the company at \$110 per share plus unpaid dividends. It appears that on May 31, 1923, all of the common stock (\$3,000,000) and \$454,400 of the preferred stock was outstanding.

Applicant has an authorized bond issue of \$10,000,000. The bonds are dated March 1, 1912, and payable March 1, 1952. They bear interest at the rate of 6 per cent per annum and are redeemable at the option of the company at any interest payment date at 105 and accrued interest. As of May 31, 1923, applicant reports \$1,463,000 of its first mortgage bonds outstanding.

James F. Pollard, applicant's vice president, testified that it is necessary for the company to issue and sell additional first mortgage bonds in the amount of \$500,000.

The record shows that the company has expended for extensions, additions and betterments to its plants and properties prior to May 31, 1923, the sum of \$294,849 which has not been obtained through the issue of stock, bonds or other evidences of indebtedness authorized by the Railroad Commission. In addition, the company reports in its Exhibit "F" an estimated expenditure of \$401,817.91 for extensions, additions and betterments to its plants and properties subsequent to May 31, 1923. The \$401,817.91 includes \$65,812.26 which is believed will be required to complete extensions, additions and betterments in process of construction on May 31, 1923. The remaining \$336,005.65 which the company believes it will be called upon to expend for extensions, additions and betterments, but the construction of which had not been started on May 31st, includes \$110,548 for the purchase of transformers now owned by applicant's consumers.

While the company asks permission to use part of the proceeds obtained from the sale of bonds to reimburse its treasury on account of moneys expended for extensions, additions and betterments, the testimony shows that all of such proceeds will be used for construction purposes. The testimony further shows that applicant will finance through the issue of its bonds only such expenditures as are properly chargeable to capital account under the Uniform System of Accounts prescribed by the Commission.

**ORDER.**

Coast Valleys Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell \$500,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Coast Valleys Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 90 per cent of their face value plus accrued interest, \$500,000 of its first mortgage 6 per cent bonds due March 1, 1952.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds obtained from the sale of the bonds, the sum of not exceeding \$294,849 may be used by applicant to reimburse its treasury on account of moneys expended for extensions, additions and betterments prior to May 31, 1923, provided that after such reimbursement, the moneys be used to pay in part the cost of constructing the extensions, additions and betterments described in Exhibit "F" filed in this proceeding or for such other purposes as the Railroad Commission may authorize by supplemental order or orders.

2. The remainder of the proceeds obtained from the sale of the bonds shall be used only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

3. Coast Valleys Gas and Electric Company shall keep such record of the issue and sale of bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue bonds will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$500 and will expire on April 30, 1924.

Dated at San Francisco, California, this twentieth day of July, 1923.

## DECISION No. 12376.

IN THE MATTER OF THE APPLICATION OF CONSERVATIVE WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 9202.

Decided July 20, 1923.

*James S. Bennett, by Harold E. Thomas, for Applicant.*

BY THE COMMISSION.

## OPINION.

Conservative Water Company asks permission to execute a mortgage or trust indenture to secure the payment of \$250,000 of first mortgage 6 per cent gold bonds and issue and sell at this time \$200,000 of such bonds to net the company not less than 90 per cent of their face value and accrued interest, and use the proceeds for the purposes hereafter mentioned.

Conservative Water Company was organized on or about April 21, 1904. It is engaged in the business of serving water for domestic use in the city of Watts and in territory outside of said city adjacent thereto, all within the county of Los Angeles. The company has an outstanding stock issue of \$100,000 substantially all of which is owned by W. W. Pedder. In addition, the company has outstanding \$40,000 of 8 per cent notes due in 1931. These notes have been issued pursuant to the Commission's Decision No. 8363, dated November 26, 1920. Applicant intends to redeem the notes at 105 and accrued interest. If it is able to sell its 6 per cent bonds at ninety or more, the payment of the 8 per cent notes will result in a reduction of applicant's interest charges.

As of December 31, 1922, applicant reports that it was serving 2804 consumers. The testimony in this proceeding shows that at present applicant has 3174 consumers, of which 2175 are served through meters and the remainder are being served on a flat rate basis. For the year 1922 applicant reports operating revenues of \$38,918.53 and operating expenses of \$24,476.36, leaving net operating revenues of \$14,442.17. Operating expenses include \$1,876.64 for taxes and \$5,582.72 for depreciation. After paying its interest (\$3,351.53) and providing for uncollectible bills (\$240.75) and nonoperating expenses (\$162.84) applicant reports a surplus of \$10,687.05 for 1922. All of this surplus was invested by applicant in its business, and none distributed as a dividend.

Applicant's business has been increasing very rapidly. The growth of its business is caused in part by an increase in the population throughout the district served by applicant and in part by the abandon-

ment of privately owned wells. Aside from the increase in applicant's business which necessitates additional construction, it is of record that both the city of Watts and the county of Los Angeles have undertaken the paving of several streets and roads, along which applicant has transmission or distribution mains. W. W. Pedder, applicant's president and principal stockholder, believes that transmission and distribution mains located in such streets and roads should be replaced, before the paving is done.

It is for the purpose of providing funds to purchase and lay additional pipes, acquire meters, and refund the \$40,000 of 8 per cent notes, that applicant asks permission to issue and sell \$200,000 of 6 per cent thirty-year bonds. The proceeds obtained from the sale of such bonds, according to the testimony, will be used for the following purposes:

To purchase and lay new pipes.....	\$93,555 73
To purchase and install 2000 meters.....	24,470 00
To pay eight per cent notes.....	40,000 00
Expenditures not itemized.....	21,974 27
Total .....	\$180,000 00

The company has filed a detailed estimate of the cost of the new pipes and meters and the installation thereof aggregating \$118,025.73.

The testimony shows that applicant intends to sell its bonds through the Hellman Commercial Trust and Savings Bank. It is believed by representatives of applicant that the bonds can be sold to net the company not less than 90 per cent of their face value and accrued interest. W. W. Pedder testified that he would pay the cost of purchasing and laying the new pipes and meters before he would use any of the bond proceeds to pay the 8 per cent notes.

Applicant has filed with the Commission a copy of its proposed mortgage or trust indenture. This instrument provides for an authorized bond issue of \$250,000. As now drawn, it reserves to the company the option to redeem the bonds after January 1, 1929, at 105 and accrued interest. It is believed that the bonds should be redeemable on or after July 1, 1925, and applicant has been requested to change its trust indenture accordingly. Consideration is also being given to the revision of that portion of the trust indenture relating to the issue of the \$50,000 of bonds not covered by this application. The execution of the mortgage or trust indenture will be authorized by the Commission after applicant has submitted to the Commission a revised copy satisfactory to the Commission.

#### ORDER.

Conservative Water Company, having applied to the Railroad Commission for permission to execute a mortgage or trust indenture and issue \$200,000 of bonds, a public hearing having been held before

Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be obtained or procured through the issue of such bonds is reasonably required by applicant;

*It is hereby ordered*, that Conservative Water Company be and it is hereby authorized to issue and sell \$200,000 of 6 per cent first mortgage gold bonds due July 1, 1953, provided such bonds are sold to net the company not less than ninety per cent of face value and accrued interest.

The authority herein granted is subject to further conditions as follows:

1. No bonds shall be delivered by applicant until the Commission has authorized applicant to execute a mortgage or trust indenture to secure the payment of the bonds.

2. Upon being authorized to execute a mortgage or trust indenture, applicant may use not exceeding \$93,555.73 of the proceeds from the sale of the bonds to pay the cost of acquiring and installing new pipe lines; and not exceeding \$24,470 of the proceeds to pay the cost of acquiring and installing 2000 meters; and not exceeding \$40,000 of the proceeds to pay the \$40,000 of 8 per cent notes—all referred to in the schedule of estimates filed in this proceeding on July 9, 1923—or to pay current indebtedness incurred for the purpose of paying the cost of acquiring and installing the said pipe lines and meters and paying said notes. The remainder of the proceeds obtained from the sale of the bonds plus such portions of the \$93,555.73, \$24,470 and \$40,000 respectively not actually needed for the purposes herein allowed, shall be expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

3. Conservative Water Company shall keep such record of the issue and sale of bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$200, and when this Commission has authorized applicant to execute a mortgage or trust indenture to secure the payment of the bonds. The authority to issue bonds will expire on December 15, 1923.

Dated at San Francisco, California, this twentieth day of July, 1923.



## DECISION No. 12382.

IN THE MATTER OF APPLICATION OF HUNTINGTON BEACH TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO INCREASE ITS RATES FOR TELEPHONE SERVICE.

Application No. 8761.

Decided July 21, 1923.

*Ernest Irwin*, for Applicant.

*L. W. Blodget*, for City of Huntington Beach.

BY THE COMMISSION.

## OPINION.

Huntington Beach Telephone Company, hereinafter designated as applicant, applies for an order of the Commission authorizing it to file and place in effect a schedule of rates, marked Exhibit "D," filed with and made a part of its application.

Applicant operates a magneto type of telephone exchange in the city of Huntington Beach, and served as of April 25, 1923, three hundred thirty-three business subscribers' stations and three hundred residence subscribers' stations, in addition to two private branch exchanges and one intercommunicating system having a total of twenty-four connected stations. Telephone service is furnished by applicant to the area enclosed within the limits of city of Huntington Beach and the territory immediately adjacent thereto. In addition to the service furnished by the lines of applicants in and in the vicinity of Huntington Beach, applicant also shares in providing so-called free switching with Smeltzer Home Telephone and Telegraph Company, by which subscribers of either company may obtain telephonic communications with subscribers of the other without the payment of interexchange charges. The Smeltzer Home Company furnishes telephone service to the community of Smeltzer and territory to the north and west of applicant's territory.

A public hearing was held in this proceeding at Huntington Beach on May 3, 1923, before Examiner Williams. It was stipulated by applicant that the Commission fix just and reasonable rates for telephone service furnished in Huntington Beach as an amendment to the request as contained in its application.

Applicant submitted an inventory and appraisal of its properties, as of September 30, 1922, the work of the American Appraisal Company, Milwaukee, Wisconsin. The inventory of this report was checked by Mr. Casal, assistant engineer of the Commission, and was found to be substantially correct. A peculiar arrangement has been followed in the setting up of the applicant's appraisal, which has resulted in some

delay in the checking of this report by the Commission. Applicant was unable to submit evidence as to the unit prices used, other than to state that the appraisal was prepared in Milwaukee and that no details except as shown in the appraisal were available.

At the time of the hearing Mr. Casal was preparing an appraisal of applicant's property, and it was stipulated that his report be received in evidence when completed and that ten days be allowed for the filing of briefs relative thereto. This appraisal was filed June 16, 1923, and no briefs being filed, the matter was submitted and is now ready for decision.

The historical reproduction cost new of applicant's properties as of September 30, 1922, found by the American Appraisal Company, totalled \$59,629.18, of which \$5,420.84 represented intangible capital. Mr. Casal in his report found this value, less intangible capital, to be \$56,339. Mr. Casal's result is a somewhat higher total than that of the American Appraisal Company, the difference, as nearly as can be determined, being due to the unit prices used by that company, which apparently were other prices than those as set forth in the vouchers of applicant.

Applicant is now constructing a central office building and is installing a common battery type of switchboard to replace the present magneto board, which is necessary to render satisfactory service to the city of Huntington Beach. A considerable part of the work planned has already been completed and it was stated by applicant that the common battery service would be provided on or about August 1, 1923. The installation of this switchboard and other changes made by applicant will result in a much improved service to the subscribers and these improvements, as stated by the city of Huntington Beach, satisfy its complaint relative to exchange service in Case No. 1865, decided this day.

In this proceeding the Commission will determine a rate base for the period from June 30, 1923, to June 30, 1924, and fix reasonable rates for this period.

Table No. 1 is the Commission's determination of the historical reproduction cost new of applicant's properties as of September 30, 1922, together with additions and betterments up to June 30, 1923, and valuation as of this date. Applicant submitted no evidence as to the details of the amount included in its report for intangible capital. The Commission has allowed the sum of \$1,000 as a reasonable amount for organization costs.

TABLE NO. I.

## Commission's Determination of Valuation of Telephone Properties.

	Valuation as of Sept. 30, 1922	Additions and Betterments Sept. 30, 1922 to June 30, 1923	Valuation as of June 30, 1923
220 Organization -----	\$1,000 00		\$1,000 00
210 Lands and buildings -----		\$9,000 00	9,000 00
220 Central office equipment -----	2,141 00	1,215 00	3,356 00
230 Station equipment -----	11,350 00	697 00	12,047 00
240 Exchange lines -----	35,705 00	8,161 00	43,866 00
260 General equipment -----	3,160 00	1,079 00	4,239 00
Total capital -----	\$53,356 00	\$20,152 00	\$73,508 00

The rate base as found reasonable for the year period from June 30, 1923, to June 30, 1924 is \$80,118, determined as shown in Table II.

TABLE NO. II.

## Rate Base. June 30, 1923-June 30, 1924.

Valuation as of June 30, 1923-----	\$73,508 00
Average additions and betterments, June 30, 1923, to June 30, 1924---	2,000 00
Total -----	\$75,508 00
Materials and supplies -----	3,000 00
Working cash capital-----	1,610 00
Rate base -----	\$80,118 00

Applicant in its annual report to the Commission shows, for the calendar year 1922, a total revenue of \$21,433.83, and a total expense of \$19,366.91, leaving a net operating revenue of \$2,066.92. Deducting taxes amounting to \$798.41, results in a net for interest of \$1,268.51, which is less than a fair return.

Applicant requests that the rates as set forth in the following Table No. III be authorized by this Commission.

TABLE NO. III.

*Business—Unlimited Service.*

Main line, wall equipment, per month-----	\$4 75
Four-party line, wall equipment, per month-----	3 50
Suburban, wall equipment, per month-----	3 75

*Residence—Unlimited Service.*

Main line, wall equipment, per month-----	3 75
Four-party line, wall equipment, per month-----	2 50
Suburban line, wall equipment, per month-----	2 75

*Private Branch Exchange Service.*

First two-way trunk line, per month-----	6 25
Each additional two-way trunk line, 75 per cent of rate of first trunk.	
Trunk line, receiving only, per month, 80 per cent of rate of first two-way trunk.	

All rental is due and payable on the first day of the month in advance. If payment is made on or before the tenth day of the month a discount of twenty-five (25) cents is allowed.

Desk equipment twenty-five (25) cents per month additional on all the above classes of service.

*Auxiliary Apparatus.*

Wall extensions, per month.....	\$1 00
Outside extensions, wall, per month.....	1 50
Desk extensions, per month.....	1 25
Extension bells, per month.....	25
Extension gongs, maintenance charge only, per month.....	75

*Private Exchange Stations.*

Stations not owned by company, per month.....	75
Intercommunicating, 10 line, per month.....	1 25

*Directory Listing.*

Member of same firm, same business, per month.....	25
Joint user, per month.....	1 50

Main and four-party line rates are based on a primary rate area, as per map filed herewith marked Exhibit "E." Beyond the primary rate area the following mileage rates apply:

Main line, fifty (50) cents per month per quarter mile or fraction thereof.

Four-party, fifty (50) cents per month per quarter mile or fraction thereof.

Applying the above rates as proposed by applicant to the estimated business for the year's period ending June 30, 1924, and assuming no regrading of service, would result in total revenue of approximately \$39,200. Deducting operating expenses, taxes, uncollectible bills and depreciation as found reasonable in Table No. IV following, for the year in question, will result in a net amount for interest of \$15,177, equivalent to 19 per cent on the rate base, an amount far in excess of a fair return.

The revenue resulting from the application of the rates determined by the Commission as set forth in Exhibit "A" following the order herein, together with the toll and other miscellaneous revenue, should result in total amount of \$30,496, which should be sufficient to give applicant a reasonable return of 8 per cent on the rate base herein found.

TABLE NO. IV.

Revenue and Operating Expenses. July 1, 1923-June 30, 1924.

<i>Revenues.</i>	
Total revenues .....	\$30,496 00
<i>Expenses.</i>	
Maintenance .....	4,200 00
Traffic .....	8,640 00
Commercial and general .....	6,504 00
Taxes .....	1,320 00
Uncollectible bills .....	120 00
Total expenses .....	\$20,784 00
Net for interest and depreciation.....	\$9,712 00
Depreciation .....	3,239 00
Net for return .....	\$6,473 00

44-24801

The rates of Exhibit "A" assume a 10 per cent increase in number of stations, and also assume that some regrading will result due to this change in rate structure.

ORDER.

The Huntington Beach Telephone Company having made application requesting the Railroad Commission to authorize certain rates for telephone service as set forth in its application or such other rates as the Railroad Commission may find just and reasonable, a public hearing having been held and the matter having been submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the rates now charged for telephone service are insufficient to provide applicant with an adequate return, and in so far as the present rates differ from the rates herein established for common battery service are not just and reasonable rates and that the rates herein established are just and reasonable rates for such service.

Basing its order on the foregoing finding of fact and upon other findings of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that the Huntington Beach Telephone Company be and it is hereby authorized to establish and file with the Railroad Commission the rates for telephone service as set forth in Exhibit "A" attached hereto, effective for common battery exchange service rendered on and after August 1, 1923, providing said rates are filed with the Railroad Commission on or before August 1, 1923, and further providing that a primary rate area is established in accordance with that primary rate area, as set forth in applicant's Exhibit "E" in this proceeding.

*It is hereby further ordered*, that Huntington Beach Telephone Company be and it is hereby directed to continue in effect for magneto service the present rates until such time as the subscribers are changed to common battery service.

Dated at San Francisco, California, this twenty-first day of July, 1923.

## EXHIBIT "A."

## EXCHANGE SERVICE—SCHEDULE NO. A-1.

*General Service.*

Applicable to individual and party-line flat rate service within the primary rate area.

*Rate.*

Class of service	Rate per month per station			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
Individual line station-----	\$3 50*	\$3 75*	\$2 75*	\$3 00*
Two-party line station-----	3 00*	3 25*	-----	-----
Four-party line station-----	2 50*	2 75*	2 00*	2 25*
Extension (with or without bell)-----	1 00	1 25	1 00	1 25

*Conditions.*

(a) For service outside primary rate area see mileage rates, Schedule No. A-3.

(b) A discount of \$0.25 is allowed on rates marked with an (\*) if payment is made on or before the tenth of the month.

## EXCHANGE SERVICE—SCHEDULE NO. A-2.

*Suburban Service.*

Applicable to suburban party line service of not more than ten parties per circuit within the exchange area outside the primary rate area.

*Rate.*

Class of service	Rate per month per station			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
Suburban service-----	\$3 75	\$4 00	\$2 75	\$3 00

*Conditions.*

(a) Suburban circuits will be constructed, installed, owned and maintained entirely at the expense of the company, providing the farthest service to be rendered is located within a distance of five miles (air line distance) from the nearest point on the primary rate area boundary, and further providing that each circuit shall average not less than two subscribers per mile with a minimum of five subscribers per circuit.

(b) A discount of \$0.25 is allowed on rate for suburban service if payment is made on or before the tenth of the month.

## EXCHANGE SERVICE—SCHEDULE NO. A-3.

*Mileage rates.*

Applicable to general and private branch exchange service inside and outside the primary rate area.

*Rate.*

## A—Outside Primary Rate Area.

Business and residence service	Monthly rate per ¼ mile or fraction thereof (air line distance)
(a) Individual line, including trunk lines for private branch exchange and intercommunicating systems-----	\$0 50 per line
(b) Two-party line-----	35 per station
(c) Four-party line-----	25 per station

## B—Inside or Outside Primary Rate Area.

Business service	Monthly rate per ¼ mile or fraction thereof (circuit mileage)
For extension stations and private branch exchange stations outside premises on which primary station or private branch exchange is located-----	\$0 50 per station
Residence service	Monthly rate
For extension stations outside building in which primary station is located, but on same premises and at a distance not exceeding three hundred (300) feet from primary station-----	\$0 50 per station

*Conditions.*

(a) The charge for service under Rate A above "Outside Primary Rate Area," is in addition to the regular flat rate charges.

(b) The charge for service under Rate B above "Inside or Outside Primary Rate Area" is in addition to the regular extension or private branch exchange station rates.

**EXCHANGE SERVICE—SCHEDULE NO. A-4.***Private branch exchange service.*

Applicable to business commercial flat rate service requiring a private branch exchange inside or outside primary rate area.

**Rate A.**

Rate per month

(a) Switchboard, cord, with battery power, ringing power, and switchboard telephone for each position-----	\$5 00
(b) First bothway trunk line-----	5 50
Each additional bothway trunk line-----	4 00
(c) Each incoming trunk line-----	2 80
(d) Each station, primary or extension wall set (see mileage rates, Schedule No. A-3)-----	1 00
(e) Each station, primary or extension, desk set (see mileage rates, Schedule No. A-3)-----	1 25

**Rate B.**

(a) Switchboard, no battery or ringing power—no charge.	
(b) First bothway trunk line-----	\$5 50
Each additional bothway trunk line-----	4 00
(c) Each incoming trunk line-----	2 80
(d) Each station, primary or extension wall or desk set-----	75

*Conditions.*

(a) Rate A is applicable to company-owned equipment.

(b) Rate B is applicable to subscriber-owned and subscriber-maintained equipment.

(c) Rates quoted under A and B are effective inside primary rate area. For service outside primary rate area see mileage rates, Schedule No. A-3.

(d) Minimum installation per switchboard under Rate A: Two (2) trunk lines and four (4) stations, excluding switchboard telephones.

(e) A discount of \$0.25 is allowed on the rate for the first bothway trunk line if payment is made on or before the tenth of the month. No discounts are allowed on additional trunks or other equipment.

**EXCHANGE SERVICE—SCHEDULE NO. A-5.***Intercommunicating service.*

Applicable to business flat rate service requiring an intercommunicating system inside or outside primary rate area.

**Rate.**

Rate per month

Receiving station, wall or desk set, with switching device:	
(a) 10-line switching device-----	\$2 00
(b) 20-line switching device-----	2 25
(c) 30-line switching device-----	2 50

Each station, wall or desk set, with switching device, in premises in which receiving station is located:

(a) 10-line switching device-----	1 25
(b) 20-line switching device-----	1 50
(c) 30-line switching device-----	1 75

Each station, wall or desk set, with switching device, outside premises in which receiving station is located, but not exceeding 300 feet from receiving station:

(a) 10-line switching device-----	2 00
(b) 20-line switching device-----	2 25
(c) 30-line switching device-----	2 50

First bothway trunk line-----	5 50
Each additional bothway trunk line-----	4 00
Each incoming trunk line-----	2 80

**Conditions.**

(a) Rates are effective inside primary rate area. For service outside primary rate area, see mileage rates, Schedule No. A-3.

(b) Minimum installation per intercommunicating system: Two (2) trunk lines and four (4) stations, including receiving station.

(c) A discount of \$0.25 is allowed on the rate for the first bothway trunk line if payment is made on or before the tenth of the month. No discounts are allowed on additional trunks or other equipment.

**EXCHANGE SERVICE—SCHEDULE NO. A-6.****Supplemental equipment.**

Rates for extra equipment requested by subscriber.

<b>Rate.</b>	<b>Installation charge</b>	<b>Rate per month</b>
(a) Extension bells—24-inch-----	\$1 25	\$0 25
(b) Extension bells—6-inch (loud ringing)-----	1 50	75
(c) 1 buzzer, battery and 50 feet of wiring-----	1 50	25
Each additional push button-----	35	05
Each additional buzzer-----	35	10
Each additional 50 feet, or less, of wire-----	50	10

**EXCHANGE SERVICE—SCHEDULE NO. A-7.****Public pay station service.**

Service from company's nonlisted public telephone station.

**Rate.**

Each exchange message----- \$0 05

**EXCHANGE SERVICE—SCHEDULE NO. A-8.****Directory listing.**

Charges for directory listing in addition to that which subscriber is entitled under the regular rates for service.

**Rate.**

A—Each subscriber is entitled without charge to one (1) listing in the telephone directory.

Private branch exchange subscribers are entitled without charge to one (1) listing for each trunk line.

B—Each listing in addition to that specified under A above shall be at the following rate:

	<b>Rate per month</b>
(a) Member of same firm, same business-----	\$0 25
(b) Joint user, unlimited business service-----	1 50
(c) Any individual residing at a residence, listed at the residence-----	25
(d) Listing for guest of hotel-----	50
(e) Subscribers desiring to convey additional information in the directory may arrange for either of the following insertions under the regular insertion:	
After----- Call-----	25
Office hours ----- to----- to-----	25
(f) Reference listing where the same name of a subscriber or an additional listed person appears in a different alphabetical list in the same directory-----	25
(g) Listing for a subscriber whose name may be spelled in two ways-----	25

**Conditions.**

(a) Joint user means individual not connected with the firm or business who is the subscriber of record.

(b) Requests for additional listing shall be made by the subscriber of record.



## DECISION No. 12385.

IN THE MATTER OF THE APPLICATION OF THE FRESNO TRACTION COMPANY, A CORPORATION, FOR A CERTIFICATE OF PRESENT AND FUTURE CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN EXTENSION OF ITS PRESENT LINES AND FOR THE FURTHER AND ADDITIONAL ORDER ALLOWING AND PERMITTING SAID COMPANY TO CROSS CERTAIN COUNTY ROADS AT GRADE.

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Application No. 9140.

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Decided July 23, 1923.

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*E. J. Foulds*, for Applicant.*MARTIN*, Commissioner.

## OPINION.

In this application Fresno Traction Company, a corporation, asks for three things, namely: first, certificate of public convenience and necessity for the construction of an extension of its railroad from a point near the intersection of Wishon and Rialto avenues in the county of Fresno to the townsite of Pinedale; second, authorization to exercise the rights and privileges granted it by the county of Fresno as set forth in certified copy of the franchise attached to the application; third, the necessary authority to construct this track across ten public highways.

A public hearing was held in San Francisco on July 16, 1923.

The proposed extension is to commence about three and one-half miles north of Fresno where it will branch off from applicant's San Joaquin River line on Wishon avenue at Rialto avenue, thence extend practically straight north to the townsite of Pinedale, thence continuing northerly adjacent to the westerly boundaries of this townsite to a wye connection with the tracks of the Minarets and Western Railway.

The purpose of this extension is to provide transportation for the employees of a large lumber mill of the Sugar Pine Lumber Company now completed lying just to the west of Pinedale. It is shown that this mill will produce approximately 500,000 feet of lumber per day and that there will be from a thousand to twelve hundred employees. Pinedale is a new town tributary to these lumber mill operations and the service to be given will provide transportation for these employees between the mill and the townsite on one hand, and the city of Fresno, on the other. In addition it is intended to combine with the Minarets and Western Railway for passenger service to the high sierras and the extent of this service being shown by the fact that approximately 23,000 people were taken to Bass Lake, a point on the Minarets and Western Railway, last year. In addition to passenger service express will be carried both between Fresno and Pinedale and in connection with the Minarets and Western Railway.

Applicant was not prepared with a detailed estimate of the cost of the proposed extension nor with the estimated revenues and expenses. These have since been submitted and the cost of construction is estimated as follows:

10.82	acres at \$600-----	\$6,492 00
8000	cubic yards of grading at 75 cents-----	6,000 00
	culverts and structures crossing irrigation ditches-----	3,600 00
8640	split railway ties at \$1.13-----	9,763 00
360	tons S. P. CS Revised 75 lb. rail at \$76.83-----	27,658 80
978	pair continuous rail joints for 75 lb. S. P. CS revised "T" rail at \$3.40-----	3,325 20
	17,280 tie plates to be used on 75 lb. S. P. CS revised "T" rail at 22 cents-----	3,801 60
4890	hipower nut locks $\frac{3}{4}$ " at .03708-----	181 32
4890	lbs. $\frac{3}{4}$ " track bolts with 15/16" rolled thread $4\frac{1}{2}$ " long at 5 cents--	244 50
25,000	lbs. $5\frac{1}{4}$ " x 9/16" track spikes at .038-----	950 00
	4 switches complete at \$400.00-----	1,600 00
6000	yds. ballast at \$1.00-----	6,000 00
	freight on ballast-----	4,950 00
	labor distributing ballast 6000 yds. at 10 cents-----	600 00
	crossing signals and signs-----	500 00
162	trolley poles in ground at \$17.00-----	2,754 00
162	pole brackets at \$4.00-----	648 00
10,344	lbs. 4/0 trolley wire at 17 cents-----	1,758 48
3	miles rail bonding at \$350.00 per mile-----	1,050 00
2.98	miles of track laying at \$1,200.00-----	3,576 00
2.98	miles of overhead labor at \$500.00-----	1,490 00
		<hr/>
		\$86,942 90
	Ten per cent for engineering and contingencies-----	8,694 29
		<hr/>
		\$95,637 19

The applicant's estimate of revenues and expenses of the extension is as follows:

Employees at mill situated at the terminus of the proposed extension—1200; of this number there should be at least 400 riders daily, at a rate of 20 cents, would equal per year, a revenue of-----	\$29,200 00
Estimated riders to and from the town of Pinedale—18,000 per year, at a rate of 20 cents-----	3,600 00
We are advised that government statistics show that in 1922 there were some 23,000 visitors, originating south of Fresno, entering the Yosemite Valley by way of Merced. The operation of the proposed line, in conjunction with the Minarets and Western Railway, should divert at least 10 per cent of those visitors over our line, giving us a haul of 2300 passengers, at a rate of 20 cents-----	460 00
	<hr/>
	\$33,260 00

The Fresno Traction Company's operating revenue and expenses for the year 1922 show that the ratio of operating expenses, depreciation and taxes to operating revenue was 77.20 per cent.

Assuming that the ratio of 77.20 per cent is a fair basis to present, the operating revenue derived from the operation of the road would return us a net income of \$7,358.78.

The record shows that the Fresno Traction Company is to build from Rialto avenue to and across Herndon avenue and that the track, as shown on Exhibit B attached to the application, north of Herndon avenue is to be owned by the Minarets and Western Railway and operated jointly. No agreement covering such joint use and operation

had been finally agreed upon at the time of the hearing, but, since this should be a matter of record in these proceedings, applicant should file as soon as it is executed.

Public convenience and necessity as measured, particularly by the needs for railway transportation between the extensive lumber mills and the townsite of Pinedale and the city of Fresno, justify the construction of this extension as proposed by applicant. This extension crosses the following public highways in the unincorporated portion of Fresno County: Wishon avenue, Emerson avenue, Sierra Madre avenue, Shaw avenue, unnamed road at station 38 plus 36, unnamed road at station 51 plus 49, unnamed road at station 64 plus 63, Bullard avenue, Sierra avenue and Herndon avenue. These highways are unimportant, except Wishon avenue, Shaw avenue and Herndon avenue, the latter two being most important. The crossings are located in open level country with the view in all directions practically unobscured and with the exception of Wishon avenue, which crossing is in the nature of a turn-out crossing half of the street, all crossings are at right angles. Shaw avenue and Herndon avenue have a surface of oiled dirt, while the other roads are not improved.

Testimony of our engineers indicates that no special protection is necessary at any of the crossings and that there is no reason why the crossings should not be authorized as proposed by applicant.

The following form of order is submitted:

#### ORDER.

Fresno Traction Company having made application for authority to construct an extension from a point in the county of Fresno at the intersection of Wishon avenue and Rialto avenue northerly to the townsite of Pinedale and at grade across certain public highways in the county of Fresno, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the construction and operation of an electric railroad from a point at the intersection of Wishon avenue and Rialto avenue in the county of Fresno, thence running north to a connection with the track of the Minarets and Western Railway Company at the northwesterly corner of the townsite of Pinedale; therefore,

*It is hereby ordered*, that Fresno Traction Company be and it is hereby authorized to exercise the rights, privileges and franchise granted by that certain ordinance of the county of Fresno filed with the application as Exhibit E.

*It is hereby further ordered*, that permission be and it is hereby granted Fresno Traction Company to construct its track at grade across Wishon avenue, Emerson avenue, Sierra Madre avenue, Shaw

avenue, unnamed road at station 38 plus 36, unnamed road at station 51 plus 49, unnamed road at station 64 plus 63, Bullard avenue, Sierra avenue and Herndon avenue in the unincorporated portion of Fresno County, State of California, in the location shown by drawing No. 283 marked Exhibit B and filed with the application, subject to the following conditions:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said roads now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding one (1) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(4) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective five (5) days after the making thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of July, 1923.

## DECISION No. 12386.

IN THE MATTER OF THE APPLICATION OF DRAYAGE SERVICE CORPORATION, A CORPORATION, FOR PERMISSION TO ISSUE AND SELL CAPITAL STOCK.

Application No. 9175.

Decided July 23, 1923.

*J. W. O'Neill*, for Applicant.

By THE COMMISSION.

OPINION.

In this application Drayage Service Corporation asks permission to issue and sell at par \$25,000 of its 8 per cent cumulative preferred stock for the purpose of acquiring additional equipment and providing itself with working capital.

The application shows that Drayage Service Corporation, organized on or about March 18, 1920, has an authorized capital stock of \$250,000, consisting of \$150,000 of common stock divided into three hundred shares of the par value of \$500 each, and \$100,000 of 8 per cent cumulative preferred stock divided into two hundred shares of the par value of \$500 each. At present only \$75,000 of the common stock is outstanding. The company has no bonded debt, but as of April 30, 1923, reports liabilities of \$40,701.99 consisting of lease contracts of \$23,173.70, accounts payable of \$9,250.52, notes payable of \$6,500 and other current liabilities of \$1,777.77.

Applicant is engaged in the business of transporting merchandise in and between the cities adjacent to San Francisco Bay. It operates as a common carrier. In addition it does a drayage business. For the year ending April 30, 1923, applicant reports gross income of \$174,479.14, of which \$83,626.82 represents freight revenue; \$90,581.94 drayage revenue; and \$270.38 revenue from other operations. The operating expenses for the same period are reported at \$166,422.43, and the net gain at \$8,056.71. The operating expenses include \$18,520.33 for repairs to equipment and \$17,507.35 for depreciation.

The testimony shows that applicant needs additional equipment and additional working capital. It is attempting to standardize its motor truck equipment and is now purchasing only Doane and G. M. C. trucks. It is of record that each of these trucks will cost applicant approximately \$3,000. Applicant intends to expend about \$15,000 obtained from the sale of its stock to purchase additional equipment.

Applicant finds it necessary at times to advance money in payment of freight charges upon merchandise of its customers. To take care of such advances, applicant believes that it should have a revolving fund of at least \$10,000. To secure money to pay for additional trucks and to create a revolving fund, applicant asks permission to issue \$25,000

of 8 per cent cumulative preferred stock. The testimony shows that this stock will be sold at par net to the company. The request contained in the petition for permission to pay a commission of not more than 10 per cent has been withdrawn.

#### ORDER.

Drayage Service Corporation having applied to the Railroad Commission for permission to sell \$25,000 of 8 per cent cumulative preferred stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant and that this application should be granted, as herein provided; therefore,

*It is hereby ordered*, that the Drayage Service Corporation be and it is hereby authorized to issue and sell for cash at not less than par net to the company \$25,000 of 8 per cent cumulative preferred stock and use approximately \$15,000 of the proceeds to acquire additional motor trucks and other equipment referred to in this application, and to use approximately \$10,000 of the proceeds for working capital.

The authority herein granted is subject to further conditions as follows:

1. Drayage Service Corporation shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue stock will become effective on the date hereof and will expire on March 1, 1924.

Dated at San Francisco, California, this twenty-third day of July, 1923.

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#### DECISION No. 12397.

IN THE MATTER OF THE APPLICATION OF NOVATO UTILITIES COMPANY, A CORPORATION, FOR ORDER AUTHORIZING THE ISSUE OF NOTES UNDER THE PROVISIONS OF THE PUBLIC UTILITIES ACT OF THE STATE OF CALIFORNIA.

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Application No. 9225.

Decided July 27, 1923.

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*J. W. Cain*, for Applicant.

*SEAVEY*, Commissioner.

#### OPINION.

In this application the Railroad Commission is asked to make an order authorizing the Novato Utilities Company to issue \$8,000 of its

ten-year 6 per cent promissory notes for the purpose of paying indebtedness and of providing the cost of additional properties.

Novato Utilities Company was organized on or about May 29, 1917, with an authorized capital stock of \$50,000 of which \$20,000 is reported outstanding. The company reports no bonded indebtedness and as of July 1, 1923, current liabilities of \$6,569.88. The company is engaged in the business of supplying electric, water and telephone service in and about the town of Novato, Marin County. For the year ending December 31, 1922, it reports gross revenues from electric operations as \$11,258.73; from telephone operations as \$4,181.79; and from water operations as \$2,672.52. After paying operating expenses including taxes and depreciation it reports net operating revenues of \$6,248.49. For the six months ending July 1, 1923, it reports its revenues from all sources as \$9,987.87 and its disbursements as \$6,283.78, leaving a net income for the six months of \$3,704.09.

The application and the testimony of J. W. Cain, applicant's president, show that it is necessary for the company to expend \$12,000 in order to pay outstanding liabilities and to provide the cost of additional properties. It appears that the company must expend \$6,000 to purchase land; \$4,175 to pay notes; and \$1,825 to reimburse its treasury because of surplus earnings expended during 1922 for extensions, additions and betterments. The property to be acquired consists of a lot in Novato 75 x 140 feet in dimension upon which there is erected a one-story stucco building at present used by applicant as its office and telephone exchange. It is thought that the purchase of this property will effect economies in operation. The notes to be paid consist of \$3,000 of five-year notes which were authorized to be issued by the Commission in its Decision No. 6593, dated August 29, 1919, to pay for additional property, and \$1,175 of short term notes which were issued during 1922 and 1923 to pay for a motor truck and additional work on applicant's reservoir.

To obtain a portion of this \$12,000, applicant proposes to issue \$8,000 of unsecured promissory notes payable on or before ten years after date with interest at 6 per cent. While applicant asks permission to issue ten-year notes, it is of record that it intends to issue its notes for a period of three years and to renew them from time to time for a total period of not exceeding ten years.

I believe the application should be granted and herewith submit the following form of order:

#### ORDER.

Novato Utilities Company having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably

required for the purpose or purposes specified in this order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Novato Utilities Company be and it is hereby authorized to issue its ten-year 6 per cent promissory notes in the aggregate amount of \$8,000 for the purpose of liquidating indebtedness and of paying in part the cost of the additional property referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. Applicant may, if it so desires, issue its notes for a period of less than ten years and renew them from time to time provided that the combined terms of the notes originally issued and of those given in renewal do not exceed a period of ten years after date of this order.

2. Novato Utilities Company shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1923.

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DECISION No. 12398.

IN THE MATTER OF THE APPLICATION OF KERMAN TELEPHONE COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AUTHORIZING IT TO EXTEND ITS LINES AND SERVICE INTO BIOLA AND SURROUNDING TERRITORY.

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Application No. 8813.

Decided July 27, 1923.

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*Ernest Irwin*, for Kerman Telephone Company.

*F. L. McNally*, for The Pacific Telephone and Telegraph Company.

*C. B. Woolten*, for Kerman Chamber of Commerce.

*O. Morrell*, for Biola Chamber of Commerce.

**WHITTLESEY**, Commissioner.

**OPINION.**

Kerman Telephone Company, applicant in this proceeding, is a corporation owning and operating a telephone exchange in the town of Kerman, Fresno County, and furnishing telephone service in the town



and adjacent territory. On April 26, 1922, Kerman Telephone Company, in Application No. 7807, applied to the Railroad Commission for a certificate of public convenience and necessity to legalize the extension of its lines and service into the town of Biola and adjacent territory. Biola is situated about six miles air line from the town of Kerman and about fourteen miles from Fresno.

A public hearing in the matter was held in Fresno June 6, 1922, before Examiner Westover. Together with other evidence at this hearing there was received a petition, signed by some seventy-nine business firms and residents of Biola and vicinity, addressed to The Pacific Telephone and Telegraph Company, requesting it to furnish the Biola community local and long distance service. The Commission in its Decision No. 10905, dated August 24, 1922, denied this application and expressed its opinion that The Pacific Telephone and Telegraph Company should establish an exchange at Biola.

Kerman Telephone Company on September 14, 1922, made application for a rehearing in Application No. 7807. The Commission in Decision No. 11308 dated December 5, 1922, denied this application.

On March 16, 1923, Kerman Telephone Company in Application No. 8813 made application for authority to extend its lines and service into Biola and surrounding territory. In this application Kerman Telephone Company alleged that owing to the satisfactory telephone service then being furnished by it to subscribers in the Biola territory a change in sentiment had taken place and Biola subscribers were then generally satisfied with their service. This improvement in service was accounted for by the fact that the previous overloading of the lines to Biola had been relieved by the building of new circuits. Accompanying the application was a petition with some one hundred twenty-six signatures of residents of the Kerman and Biola districts requesting that the matter of the Biola service be reopened with the idea of keeping the district under one exchange. Petitions were received from both the Kerman Chamber of Commerce and Biola Chamber of Commerce in which the Commission was requested to reopen the matter of the Biola service and to allow Kerman Telephone Company to render service throughout both towns and the surrounding community.

A public hearing in this matter was held in Kerman on May 9, 1923. Much publicity had been given the notice of the hearing so that all those interested in the matter could be present and be heard if they so desired. Numerous witnesses from both Biola and Kerman districts testified and all expressed the same desire that the entire Kerman and Biola district be served from the one exchange. The Pacific Telephone and Telegraph Company stated that the entire territory of Biola, Kerman and vicinity should be served as one district and that the

boundary line between this district and the exchange districts of The Pacific Telephone and Telegraph Company should be established as Dickinson avenue south from the San Joaquin River. No protest was made against the granting of the certificate to Kerman Telephone Company.

Kerman Telephone Company desires to make effective in Biola district the rates now in effect in Kerman district which are those provided by the Commission's Decision No. 9457.

Pending the establishment of an exchange in Biola by The Pacific Telephone and Telegraph Company, Kerman Telephone Company offered four-party business service, effective within the town limits of Biola only, and establishing a monthly per station rate of \$3.50 and such rate has been in effect since July 20, 1922. Kerman Telephone Company contended that this special rate was necessary since its monthly four-party per station rate of \$2 for wall set and \$2.25 for desk set when increased by a mileage charge varying from \$5.50 to \$6 per month and making a total rate of from \$7.50 to \$8 per month for wall sets and \$7.75 to \$8.25 for desk sets, would be excessive and render its service undesirable. Therefore Kerman Telephone Company at the hearing requested authority to make effective a special rate for four-party business service within the town limits of Biola only.

Both The Pacific Telephone and Telegraph Company and Kerman Telephone Company have been furnishing service in Biola and vicinity. At this time The Pacific Telephone and Telegraph Company has one service within the town limits of Biola and others in the surrounding territory. The furnishing of telephone service in the Biola district by both telephone companies is wrong in principle and I believe that the double service should be discontinued.

On June 5, 1923, The Pacific Telephone and Telegraph Company requested this Commission to withdraw its application, for authority to establish an exchange at Biola. This request was granted June 14, 1923.

I therefore recommend that Kerman Telephone Company be authorized to extend its lines and service into Biola and vicinity and that all present and prospective telephone subscribers in the Kerman and Biola territory be offered Kerman service and that The Pacific Telephone and Telegraph Company discontinue all exchange service in this district west of a line parallel to and five hundred feet west of Dickinson avenue and that the Kerman Telephone Company reimburse The Pacific Telephone and Telegraph Company for its investment in that territory and that Kerman Telephone Company discontinue all telephone exchange service in The Pacific Telephone and Telegraph Company territories east of a line parallel to and five hundred feet west of

Dickinson avenue and that The Pacific Telephone and Telegraph Company reimburse Kerman Telephone Company for its investment in that territory.

#### ORDER.

Kerman Telephone Company, a corporation, having made application for a certificate of public convenience and necessity authorizing it to extend its lines and service into Biola and surrounding territory, a public hearing having been held, the matter having been submitted and ready for decision, and it appearing that public convenience and necessity require that Kerman Telephone Company furnish telephone service in Biola and vicinity.

The Railroad Commission declares that present and future public convenience and necessity require the construction by the Kerman Telephone Company of an extension of its telephone lines for the service of the town of Biola and territory adjacent thereto, provided that a line parallel to and five hundred feet west of Dickinson avenue be and the same is hereby established as the eastern boundary line which shall separate the enlarged exchange district of Kerman Telephone Company from the exchange districts of The Pacific Telephone and Telegraph Company, and further provided, that the rates and charges which are effective in the present Kerman exchange district shall be effective in Biola and surrounding territory and that the following rate be filed with this Commission within fifteen days and be made effective within the corporate limits only of Biola within thirty days from the date of this order.

	Rate per month—Business service	
	Wall set	Desk set
Four-party line per station-----	\$3 50	\$3 75

*It is hereby ordered*, that The Pacific Telephone and Telegraph Company shall be and it is hereby authorized to discontinue within twelve months from the date of this order all telephone exchange service in the Kerman exchange district west of the eastern boundary line herein established and that Kerman Telephone Company be and it is hereby authorized to discontinue within the same period all telephone exchange service in The Pacific Telephone and Telegraph Company's exchange territories east of this line.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of July, 1923.

## DECISION No. 12400.

IN THE MATTER OF INVESTIGATION ON COMMISSION'S OWN MOTION INTO THE RATES, RULES, REGULATIONS, PRACTICES AND SERVICE OF W. E. WHITE, OPERATING A PUBLIC UTILITY WATER SYSTEM IN AND IN THE VICINITY OF CHICO, UNDER THE NAME AND STYLE OF W. E. WHITE WATER COMPANY.

Case No. 1930.

Decided July 27, 1923.

*Clyde Thomas*, for W. E. White Water Company.  
*Jerome D. Peters*, for the City of Chico.

BY THE COMMISSION.

## OPINION.

This investigation of the conditions existing on the W. E. White Water Company system was necessitated by the failure of the company to comply with the orders of this Commission requiring the installation of certain improvements in the storage facilities for the betterment of the distribution service.

As a result of the complaint of J. S. Hommes et al., in Case No. 1612, an action brought by several consumers alleging poor and inadequate service, the Commission in Decision No. 9726 ordered the installation of additional storage facilities so located as to provide proper and reasonably adequate service at all times throughout the entire system.

Application No. 7810 was a petition filed by this water company requesting an increase in rates. In Decision No. 10703 the Commission found that the rates then in effect were in fact not yielding the company a fair return upon its reasonable investment, and granted an increase in rates. In order to encourage the installation of meters for the purpose of more fairly controlling the use of water and conserving the supply, the entire increase was placed upon the metered use, and the flat rate schedule was unchanged. Furthermore, the collection of this increased rate was made contingent upon the installation of the improvements as ordered in connection with Case No. 1612. As this order has not yet been complied with, the company has not been able to realize any benefits from the increase heretofore granted.

The effective date of the order in Case No. 1612 was extended from time to time on requests from both the company and the consumers. The principal reasons for these extensions of time are attributable to two recent elections in the city of Chico, in both of which the proposal before the electorate was to authorize the purchase by the municipality of that part of this water system lying within the city limits. These measures failed to carry and it now devolves upon this company to make the necessary provisions to render adequate service to its consumers.

A public hearing in this matter was held before Examiner Satterwhite at Chico. All interested parties were duly notified and given an opportunity to be present and to be heard.

Evidence introduced by the water company indicates that for the six months' period ending June 30, 1923, the operating revenues have been \$1,262 and the cost of operation \$1,093, exclusive of proper allowance to W. E. White for services rendered. These figures taken in conjunction with the revenues and costs of operation for the last six months of the previous year indicate that for the period of twelve months ending June 30, 1923, the total revenues were \$2,724 and the total expenses \$2,775. While these figures are subject to some slight modification for improper charges, it is clearly evident that the annual revenues of this company are still inadequate.

W. E. White, who owns and operates the system, testified that he has carried out the terms of the Commission's orders to the extreme limit permitted by his financial resources; that the foundations for a new storage tank have already been installed, and the tank, necessary timbers and fittings are on the ground, but on account of the impoverished financial condition of the company he has been unable to procure funds sufficient to pay for the materials already on hand and to provide for the additional costs of installation.

The Commission is of the opinion that the inadequate service conditions at present existing on this system can be remedied more effectively by removing the restrictions heretofore placed upon the collection of the increased revenues to which this water company was found entitled in Decision No. 10703. In order that this may be accomplished with as little delay as possible and without putting the company to the additional expense of installing meters, the present flat rate for domestic service will be increased from \$1.50 per month to \$2. The removal of the restrictions surrounding the previous order of the Commission should make it possible for this company to make immediate arrangements to secure the money required to place the system on a more efficient basis.

That the consumers of this water system will not be antagonistic to the measures adopted herein to improve service conditions, provided such measures result in the rendering of proper and adequate service, is evidenced by the fact that on February 15, 1922, a petition was forwarded to the Commission, in which a majority of the consumers on this water system signified their willingness to accept an increase in the monthly flat rate to \$2, provided adequate service resulted therefrom within a reasonable time. Furthermore, although ample notice of the hearing in the present matter was given by publication, only two consumers appeared, neither of whom entered a protest.

The Commission will keep in close touch with the affairs of this water company, and if for any reason the improvements heretofore ordered are not installed and in proper operation within a reasonable time, the increase in rates granted in the order following will be revoked immediately by supplemental order.

#### ORDER.

This Commission having instituted an investigation on its own motion into the rates, rules, regulations, practices and service of W. E. White, operating a public utility in and in the vicinity of Chico, under the name and style of W. E. White Water Company, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by the said W. E. White for water supplied to his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that W. E. White, operating a public utility in and in the vicinity of Chico, under the name and style of W. E. White Water Company, be and the same is hereby directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates for water delivered to consumers subsequent to August 20, 1923:

#### RATE SCHEDULE.

##### Monthly flat rates:

1. Residences -----	\$2 00
2. Stores -----	2 00

##### Monthly meter rates:

500 cubic feet or less -----	1 25
From 500 to 1000 cubic feet, per 100 cubic feet -----	25
From 1000 to 2000 cubic feet, per 100 cubic feet -----	20
Over 2000 cubic feet, per 100 cubic feet -----	12

The foregoing schedule of meter rates is the same as the schedule heretofore authorized by Decision No. 10703 in Application No. 7810.

*It is hereby further ordered*, that such provisions of previous orders of this Commission as conflict with the orders herein, be and the same are hereby annulled, and that such provisions in said previous orders as do not conflict with the orders herein shall remain in full force and effect.

*It is hereby further ordered*, that the said W. E. White be and he is hereby directed to proceed with due diligence to complete, within a reasonable time and in a manner satisfactory to the Railroad Commission, the improvements ordered by this Commission in its Decision No.



9726, and to submit to this Commission written reports showing progress of the work herein ordered, at intervals of ten (10) days beginning not later than August 31, 1923.

Dated at San Francisco, California, this twenty-seventh day of July, 1923.

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DECISION No. 12395.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE TRACKS ACROSS CERTAIN PUBLIC HIGHWAYS IN THE CITY OF GLENDORA AND IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND AT GRADE ACROSS THE RAILROADS OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, IN CONNECTION WITH THE CONSTRUCTION OF ITS PROPOSED RAILROAD FROM A POINT IN ITS PRESENT RAILROAD LINE IN THE CITY OF GLENDORA, THENCE IN A GENERAL EASTERLY AND SOUTHERLY DIRECTION TO A CONNECTION WITH ITS LOS ANGELES-SAN BERNARDINO LINE AT LONE HILL, IN SAID COUNTY OF LOS ANGELES.

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Application No. 8369.

Decided July 27, 1923.

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RAILROAD CROSSING—SEPARATION OF GRADES.—Upon rehearing the Commission reaffirms its previous order for the separation of grades at the crossing of the Pacific Electric Railway over Minnehaha avenue, Glendora, but amends its order to make the separation of grades at the crossing over the tracks of the Atchison, Topeka and Santa Fe Railway optional. Interlocking device ordered installed at this crossing if constructed at grade.

*Frank Karr*, for Applicant.

*E. W. Camp*, for The Atchison, Topeka and Santa Fe Railway Company, not a Protestant.

*R. B. Bidwell*, City Attorney, for City of Glendora, not a Protestant.

*Thomas E. Minds*, for the Automobile Club of Southern California, not a Protestant.

BY THE COMMISSION.

OPINION ON REHEARING.

This matter is again before the Commission on petition of applicant for rehearing and for modification of Decision No. 11644. The only modifications asked are that the crossings of Minnehaha avenue and the main line of the Atchison, Topeka and Santa Fe Railway be authorized to be constructed at grade, instead of at separated grades, as authorized in the above decision.

A rehearing was held in Glendora on April 24, 1923, before Examiner Williams.

The two crossings involved herein may be considered separately.

**Minnehaha Avenue Crossing.**

Applicant contends that the hazard and inconvenience to be introduced at the Minnehaha avenue crossing by the construction of its line of railroad does not justify the separation of grades. It suggests

further that in order to improve the view of approaching trains that triangular pieces of land be acquired at each corner of the crossing, such triangles to have equal legs of from thirty to forty feet along Minnehaha avenue and Cullen avenue, the latter avenue being that on which applicant's track is proposed to be located. Applicant is willing either to acquire this additional land, or if not able to do so, to obligate itself to the city of Glendora to pay the cost of condemning such land in a suit to be brought for that purpose.

Traffic checks at the Minnehaha avenue crossing were submitted and show as follows:

Date	Day of week	Hours		Number of vehicles, total
February 27, 1923	Tuesday	6 a.m. to	8 p.m.	1548
March 6, 1923	Tuesday	6 a.m. to	8 p.m.	1844
April 22, 1923	Sunday	8:15 a.m. to	6:30 p.m.	4853
April 23, 1923	Monday	6 a.m. to	6 p.m.	1537

The first two counts were made by applicant and the second two by the Automobile Club of Southern California. The maximum per hour is not available for applicant's counts, but from the Automobile Club's exhibit it is noted that maximum hourly traffic was 720 on Sunday, April 22.

Applicant submitted plans and estimates for the separation of grades at these two crossings as shown in Table 1, these estimates and plans having been requested by the Commission subsequent to the filing of the application for rehearing and having been submitted to the Commission for the examination of its engineers prior to the rehearing.



TABLE I.

Item	Plan A	Plan B			Plan C
		North End	South End	Total	
Crossings separated	1 Minnehaha av. 2 Santa Fe 3 Ada av. 4 Lemon av. 5 Carroll av.	1 Minnehaha av.	1 Santa Fe 2 Lemon av.	1 Minnehaha 2 Santa Fe 3 Lemon av.	Same as A
Location of Pacific Electric Railway main track	In Cullen av. as per franchise	On new land adjacent Cullen av.	On both new land and that already acquired		Same as A
Change of grade of Pacific Electric track	Elevated 17 to 25 feet	Elevated 11 ft. at Minnehaha avenue	Elevated 25 ft. at Santa Fe, 17 ft. at Lemon av.		Same as A
Change of grade of streets	No change	Minnehaha av. depressed 6 ft. Carroll av. raised 5 ft.	No change		No change
Type of construction of Pacific Electric roadbed	Concrete retaining walls in Cullen av.	Fill	Fill		Timber structure in Cullen av.
Cost:					
Land	\$41,365 00				
Embankment		\$47,526 00	\$98,839 00		\$188,271 00
Abutments					
walls and					
Bridges	276,357 00		7,800 00		7,150 00
Spur track	7,150 00				
Total, except damages	\$324,872 00	\$47,526 00	\$106,639 00	\$154,265 00	\$195,421 00
Damages	78,328 00	No estimate	No estimate	No estimate	78,328 00
Total	\$403,200 00				\$273,749 00

Plan B is preferable to and less expensive than either Plan A or Plan C, and, therefore, neither Plans A or C will be further considered.

Plan B may be considered in two parts: one involving primarily the crossing of Minnehaha avenue and as a secondary matter the crossing of Carroll avenue. Ada avenue, which would be crossed at grade divides this first part from the second, or southern part, in which are involved primarily the crossing of the main line of the Santa Fe and as a secondary matter, the crossing of Lemon avenue. As hereinafter referred to, then, Plan B North will refer to that portion north of Ada avenue, and Plan B South will refer to that portion south of Ada avenue.

The cost of grade separation at Minnehaha avenue is estimated by applicant at \$47,526 plus consequential damages, if any. Our engineering department also made an estimate of the cost of grade separation at Minnehaha avenue based upon Plan B North, which totals \$55,000, also without including the cost of damages, if any, to adjacent property. These figures compare with applicant's approximate estimate at the prior hearing of \$100,000.

The city of Glendora has not taken any official position on the question of a grade or overhead crossing. The Automobile Club of Southern California, being interested in grade crossing elimination, stated that there had been thirty-one fatalities in grade crossing accidents in Los Angeles County in the first three months of 1923 against thirty-six in the first nine months of 1922. This large increase in grade crossing accidents in Los Angeles County is further substantiated by the Commission's records. Several other organizations, including the Foothill Boulevard Association, protest against the grade crossing, although the one named is the only one whose resolution appears in the record.

There are two estimates for the construction of this overhead crossing; applicant's Exhibit 2, Plan B North, and our engineer's approximate estimate of \$55,000 neither estimate including possible damages to adjacent property. For the purpose of this proceeding let us use \$50,000 for grade separation, exclusive of damages.

Applicant's Exhibit 2 shows that the right of way for Plan B North is estimated to cost \$8,900, exclusive of damages, this amount representing applicant's cost of acquiring a strip of land fifty feet in width east and immediately adjacent to Cullen avenue, between Ada avenue and a point north of Electric or Dalton avenue. This strip of land is all through orange orchards, the approximate value of which appears to be \$5,000 per acre. Two property owners adjacent to the proposed line stated that they thought their property would be damaged if applicant's track were constructed overhead across Minnehaha avenue, but the direct testimony only of two adjacent property holders can not be considered of importance. Other than this the record contains no estimate of damages.

From a careful consideration of all the evidence, it is concluded that the public safety and convenience will warrant the expenditure of \$50,000 for the separation of grades of the Minnehaha avenue crossing. If the damage to the adjacent property were finally fixed at \$25,000, or less, then the total cost, following Plan B North, would be \$75,000, or less, and it is concluded that the expenditure of this amount is justified to permanently remove all possible hazard at this important highway crossing and for the public convenience which would result from the free flow of travel across the route of the railroad at this street.

**Santa Fe Crossing.**

Referring to Table 1 applicant's estimate of the cost of grade separation at the Santa Fe main line crossing under Plan B is \$106,639, exclusive of damages to adjacent property, if any. Our engineers have estimated approximately \$92,000 also exclusive of damages, and testified as to the annual cost, using an interest rate of  $6\frac{1}{2}$  per cent. Changing their estimates by using 6 per cent, which the record shows is a fair rate of interest for the applicant herein and, also similarly correcting the estimated annual cost of a grade crossing, the following comparative figures may be given:

**Annual Cost of Santa Fe Main Line Crossing.****Grade Crossing—**

Interlocker operated twenty-four hours.

(a) two shifts of towermen----- \$7,136 00

(b) three shifts of towermen----- 8,205 00

**Overhead Crossing—**

(a) Based upon \$92,000 estimated cost----- 5,974 00

(b) Based upon \$106,639 estimated cost----- 6,752 00

The estimate of \$8,205 above compares with the approximate estimate of \$4,000 in the previous decision in this matter. Comparing the two types of crossings, it appears that the annual cost of \$6,752 for the higher estimate (applicant's estimate) for the separated grade (overhead) crossing is \$384 less than the annual cost, \$7,136, of a grade crossing with a two-shift first-class interlocking plant and \$1,453 less per year compared with three-shift operation. These \$384 and \$1,453 differences may be considered as available for the carrying charges of damages which is not included in the above figures and at 6 per cent this amount would be equivalent to interest at the rate of 6 per cent on an expenditure of \$6,400 and \$24,200, respectively, for two-shift and three-shift operation. Applicant's Exhibit 2 includes an item of cost of additional right of way of \$15,845. The record does not show any estimates of the cost of damages.

Where interested railroads can provide the funds for grade separation the question of first cost is not as important as the annual cost. The difference in annual cost as between a grade crossing and a separated grade crossing, is, excluding cost of damages, in favor of grade separation. Including the cost of possible damages to adjacent property the annual cost would still be favorable to grade separation. The Santa Fe did not offer any evidence as to the manner in which the Pacific Electric should cross its main line, nor to the division of expense of grade separation.

The original order provided that the Santa Fe should pay as its part of the cost of the overgrade crossing the sum of \$33,000, which was indicated as being equivalent to the capitalized cost of one-half of the

estimated cost of operation and maintenance of an interlocking plant. This amount should be charged on the basis of the revised estimate. At this time we have before us the Commission's engineer's estimate of \$5,576 for operation and maintenance of an interlocking plant and predicated upon this amount the Santa Fe should, based upon an interest rate of 6 per cent, pay toward the cost of grade separation \$46,466.

It has been concluded that the construction of the crossing of the Santa Fe main line, whether at grade or overhead, should be left optional with the two carriers and the order will so provide. The carriers' attention is particularly directed, however, to the fact that it is concluded that grade separation, with the cost divided so that the Santa Fe pays a proportion equal to the capitalized cost of maintenance and operation, in this case is both an equitable and less expensive arrangement, and that this Commission must consider this in rate proceedings.

The general grade crossing situation in Los Angeles County is worse than ever before. Vehicles are still more numerous and grade crossing accidents have increased. The grand jury of Los Angeles County has appealed to the Commission for the improvement of existing conditions at the Pacific Electric Railway crossings. The Commission has also been asked to investigate the whole situation in the county. These facts, together with careful consideration of all of the evidence, lead to the conclusion that the Minnehaha avenue crossing should not be constructed at grade, and that applicant's prayer should be denied as to this crossing. The original order, however, can now be made more specific as to the point and manner of crossing and this will be done.

#### ORDER ON REHEARING AND MODIFYING PRIOR ORDER.

Pacific Electric Railway Company having applied for a rehearing of the above entitled proceeding, such rehearing having been held and the Commission being apprised of the facts, the matter having been under submission and ready for decision;

*It is hereby ordered*, that Decision No. 11644, dated February 9, 1923, be and it is hereby amended by striking out thereof the words:

*It is hereby further ordered*, that when and if the line of railroad for which certificate of public convenience and necessity is herein granted is constructed, applicant be and it is hereby directed to construct its track at separated grades across the main track of The Atchison, Topeka and Santa Fe Railway Company according to plans and specifications which shall hereafter have been approved by this Commission. The expense of constructing said separated grade crossing shall be borne by applicant, except The Atchison, Topeka and Santa Fe Railway Company shall contribute to the cost of said separated grade crossing the sum of thirty-three thousand (\$33,000) dollars unless said amount is altered by subsequent order of this Commission.

and by inserting, in lieu thereof, the following:

*It is hereby further ordered*, that permission be and it is hereby granted Pacific Electric Railway Company to construct its track across the main line track of The Atchison, Topeka and Santa Fe Railway Company, either at grade or overhead; said crossing to be constructed subject to the following conditions:

(a) If constructed at grade:

(1) Said crossing shall be constructed in the location shown by drawing M. W. H. 3450 attached to Exhibit D-1 filed with the application.

(2) The entire expense of constructing said crossing, together with the cost of its maintenance thereafter in good and first-class condition shall be borne in accordance with the agreement marked Exhibit D-1 filed with the application.

(3) For the protection of said crossing there shall be installed a first-class interlocking plant, the plans for which shall have been approved by the Commission; said interlocking plant to be completely installed and ready for service before the regular operation by applicant over said crossing shall have been commenced. The cost of the construction, operation and maintenance of said interlocking plant shall be borne in accordance with the agreement marked Exhibit D-1 filed with the application.

(4) Applicant shall within thirty (30) days thereafter notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(b) If constructed at separated grades:

(1) Said crossing shall be constructed substantially in accordance with Plan B, south of Ada avenue, as shown on applicant's Exhibits Nos. 5 and 7.

(2) The cost of constructing said crossing at separated grades, together with the cost of its maintenance thereafter shall be borne in a manner as agreed upon by the applicant and The Atchison, Topeka and Santa Fe Railway Company.

(3) Applicant shall within thirty (30) days thereafter notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that said Decision No. 11644, dated February 9, 1923, be and it is hereby further amended by striking out thereof the words:

*It is hereby further ordered*, that when and if the line of railroad for which certificate of public convenience and necessity is herein granted is constructed, applicant be and it is hereby directed to construct, at its sole cost and expense, its track across Minnehaha at separated grades according to plans and specifications which shall hereafter have been approved by this Commission.

and by inserting, in lieu thereof, the following:

*It is hereby further ordered*, that when and if the line of railroad for which certificate of public convenience and necessity is herein granted is constructed, applicant be and it is hereby directed to construct, at its own sole cost and expense, its track across Minnehaha avenue at separated grades substantially in accordance with Plan B as shown on applicant's Exhibits Nos. 5, 7 and 10, and according to detail plans and specifications which shall hereafter have been approved by this Commission.

*It is hereby further ordered*, that the application for the modification of said Decision No. 11644 be and it is in all other respects denied.

This order shall become effective ten (10) days after the making thereof.

Dated at San Francisco, California, this twenty-seventh day of July, 1923.

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DECISION No. 12414.

GROVELAND WATER USERS ASSOCIATION

vs.

YOSEMITE POWER COMPANY, A CORPORATION.

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Case No. 1742.

Decided July 27, 1923.

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**WATER—SERVICE—PUBLIC UTILITY.**—The Commission finds that the Yosemite Power Company is not a public utility subject to the regulation of the Commission, and that irrigation service from its ditch system is an economic impossibility.

*Rowan Hardin*, for Complainant.

*Charles S. Wheeler and Charles S. Wheeler, Jr.*, by *Charles S. Wheeler*, and *J. B. Curtin*, for Defendant.

BY THE COMMISSION.

**OPINION.**

This is a complaint by an association of landowners in Groveland and vicinity, Tuolumne County, which alleges in effect:

That defendant is a California corporation and is the owner of a ditch, commonly known as the Golden Rock Water Ditch, having a capacity of 3000 miner's inches, diverting water from the South Fork of the Tuolumne River and conveying the same in a westerly direction to a point between the towns of Groveland and Big Oak Flat;

That for more than twenty years this ditch and the waters diverted thereby have been used in the so-called Groveland section of Tuolumne County for irrigation, domestic and mining purposes, and that such use

is the only beneficial use heretofore made of the ditch and the waters diverted thereby;

That the total area of good agricultural lands under the present ditch system, or possible extensions thereof, and within the area heretofore supplied with water from this ditch, is approximately 9000 acres, of which at least 2561 acres in the Groveland section are now ready for irrigation and whose owners are willing to pay a reasonable charge for such waters as are required for the irrigation of the lands;

That only a small quantity of water has been run through the ditch system during the past two years, and that demand has been made upon defendant to supply water for irrigation, domestic and mining use in the Groveland section but that defendant has refused to supply water for such purposes, claiming that it intends to use the water entirely for the generation of hydro-electric power;

That there are no other water systems in this vicinity from which complainant can secure water, and that the use thereof for power purposes will entirely deprive complainant of water to which these lands are entitled;

That defendant's ditch system and the flumes thereon are in poor condition and in need of repair, and that the estimated cost of such repairs is approximately \$12,000.

That complainant has subscribed \$9,260 in cash and \$3,325 in the form of labor, and tenders the same to defendant for use in making the necessary repairs to the system.

Complainant therefore asks that the Commission find that the land-owners in the Groveland section are entitled to all the waters of the South Fork of the Tuolumne River which are required for irrigation, domestic and mining use on their lands, and that defendant be required to deliver such waters from its ditch system. Request is also made that, if defendant is not in financial condition to make the necessary repairs to its ditch system, an order be made authorizing complainant to advance the necessary funds upon such terms and conditions as are equitable.

Defendant's answer to the foregoing complaint constitutes a general denial thereof, and in addition contains the following allegations:

That the Golden Rock Ditch was originally constructed for mining purposes and that the use for such purposes had largely or entirely ceased when, in the year 1905 or thereabouts, defendant acquired the ditch and water rights appurtenant thereto for the purpose of developing hydro-electric energy;

That pending the utilization of the property for power purposes defendant has at times in the past carried water through its ditch and permitted persons along its route to use water for irrigation, domestic

and mining purposes, but upon the distinct understanding that such use would not be determinative of any continuing right thereto, but could be terminated at any time;

That the ditch and the water rights pertaining thereto have never been dedicated to public use, nor is defendant a public utility;

That the use of any water through defendant's ditch by complainant for the uses desired would entirely prevent the use of water for the development of hydro-electric power by defendant, and would prevent the carrying out of the plans and objects for which defendant was incorporated;

That the cost of putting the ditch and flumes in such condition as would be required for supplying water as requested by complainant would be greatly in excess of \$12,000;

That the Golden Rock Ditch is not the only source of water supply available to complainant but that there are numerous springs in the Groveland section which will furnish an adequate water supply for irrigation purposes.

Subsequent to the filing of the complaint and defendant's answer thereto the Commission's hydraulic division made an investigation of the matters complained of and prepared a report thereon. Later, public hearings were held at Groveland before Examiner Satterwhite and the matter is now ready for decision.

This ditch system consists of a diversion ditch and a main ditch. The diversion ditch extends from the Middle Fork of the Tuolumne River to the headwaters of Ackerson Creek and has a capacity of approximately 25 cubic feet per second and a length of about two miles. It consists of an earth canal and some timber flume, and diverts the water of the Middle Fork into the South Fork of the Tuolumne River and increases the possible diversion into the main ditch, which consists of earth canal, timber flume, and steel siphons, having a total length of approximately 40 miles and a capacity of about 75 cubic feet per second at its upper end. The location of the ditch is in accordance with the customary practice for old mining ditches and follows all draws and ravines. As a consequence the total length is greatly in excess of the length of modern ditches in similar locations, which make use of siphons of flumes to shorten distance. The ditch system will require extensive cleaning and repairs in order to convey water without excessive loss in transit. A branch ditch, built to convey water to the Kanaka and Hoffman mining claims, has not been used since 1909 and has since deteriorated to such an extent that it is now in very poor condition. At a point between the towns of Groveland and Big Oak Flat the main ditch divides into several laterals which originally carried water to the Longfellow Mine, to Deer Flat, to the Priest Section, to Moccasin Creek,



to Penon Blanca, and to Coulterville. Use of water on these ditches, except those to the Longfellow Mine and to Deer Flat, has ceased for many years and the ditches are in very poor condition.

There are approximately 16,000 acres of land lying at elevations sufficiently low to permit theoretically of irrigation from this ditch system. A large portion of the land is, however, so steep, rough, or so badly cut and gullied by mining operations as to make its use for agricultural purposes a practical impossibility. Probably the maximum area capable of successful irrigation does not exceed 7000 acres. Owing to the rough character of the district the irrigable lands do not generally occur in large bodies but are somewhat scattered, a characteristic which will make the distribution of water more expensive than it would be in a district composed of lands not so rough as those found in this section. The irrigable lands are in the main well adapted to the production of fruit and other crops grown in the foothill districts of the northern part of the state. A large part of the district is covered with a heavy growth of timber and brush which will require time and a considerable expenditure of money to clear so that the land can be put into crop.

In 1852 the first locations for water were filed and in 1856 various holders of water rights and locations on the Tuolumne River incorporated under the name of The Golden Rock Water Company for the purpose of constructing canals, flumes, and other works for furnishing a supply of water from the Middle and South Forks of the Tuolumne River and other streams, to the territory between the Merced and Tuolumne rivers, for mining, agricultural, mechanical and other purposes.

Construction of the ditch system was commenced in 1856 and was completed in 1858 at a cost in excess of \$150,000. In 1860 water was being supplied to miners in the vicinity of Big Oak Flat and Moccasin Creek. In 1867 The Golden Rock Water Company transferred all rights and property to Erwin Davis and G. A. Conrad, and thereafter the property was transferred on various occasions for nominal considerations and several sheriffs' sales were made to satisfy judgments against the owners.

In 1874 Caleb Dorsey purchased the ditch system and two mining claims for \$5,000, and leased the ditch to one Rocco, who replaced the flumes at the upper end of the ditch, which, prior to the purchase by Dorsey, had been burned or had fallen into a state of disrepair. Rocco also replaced some flumes with siphons and supplied water to miners along the ditch as far as Penon Blanca and Coulterville. In 1879 or 1880 Dorsey resumed control of the property and operation of the ditch was discontinued.

From 1880 to 1895 the property changed hands a number of times and several sheriffs' sales occurred. In 1890 the ditch and two mining claims sold for \$1,251.20. Practically no use was made of the property from 1880 to 1902, when the upper twelve miles of the ditch were used to convey water for gravel mining operations near Buck Meadows, but this use was soon discontinued and the ditch was practically abandoned until 1906, when it was cleaned and repaired by the Big Creek Gold Mining Company, which had purchased the ditch and water rights in 1905 for \$75,000, and water was conveyed to Deer Flat for mining purposes.

In 1908 the property was acquired by the Tuolumne Power Company, which in 1911 sold the system to Yosemite Power Company, incorporated in 1910 for the purpose of acquiring the properties of Tuolumne River Power Company, Tuolumne Power and Light Company and La Grange Water and Power Company. In 1917 the La Grange Water and Power Company's plant was sold to Sierra and San Francisco Power Company.

On October 16, 1918, Yosemite Power Company entered into an agreement with the City of San Francisco which permitted the city to take possession of and operate the Golden Rock Ditch for a period of three years, and to use such water as was required for construction purposes on the Hetch Hetchy project, reserving only such water as was required for domestic use on the Peri Ranch, owned by Yosemite Power Company. In accordance with this agreement the city of San Francisco operated the ditch and at the expiration of the three-year term continued to use the ditch and the water conveyed therein for construction purposes.

It is evident that the operation of this ditch system, from its very beginning has been intermittent and that no water has been conveyed therein for long periods of time. The exact dates and duration of these periods of disuse can not, however, be accurately determined. It is clear that the ditch was idle from about 1870 to 1874, a period of four years, except for some water which may have been used for mining purposes on the upper twelve miles of the main ditch. It is also evident that the ditch was not used from 1879 or 1880 to 1906, except for some deliveries of water on the upper end, and that during this period no water whatever was delivered to the Groveland, Big Oak Flat or Deer Flat sections.

Prior to 1906 it appears that the water was used almost exclusively for mining purposes, agricultural and domestic use not being permitted except in rare instances and in connection with mining activities.

At various times subsequent to 1906 water was run down the ditch and sold for mining and agricultural purposes. It is claimed by defendant that such sales were with the understanding that no continuing rights could be acquired thereby and that such use of water

could be discontinued at any time. Complainant asserts, however, that no restrictions of any kind were placed upon the use of water.

Since the city of San Francisco commenced operation of the ditch practically no deliveries of water for agricultural purposes have been made.

It is evident that the operation of this property, from its very inception, has resulted in nothing but financial embarrassment to its owners.

Both the Middle and the South forks of the Tuolumne River have all the characteristics of the typical western mountain streams, which produce heavy run-off in May and June and diminish to a very low flow in August and September when the water is most urgently required for irrigation purposes. This ditch system has no provisions for storage of water and the evidence indicates that the construction of storage reservoirs, without which only a very small acreage can be assured of a full supply of water, would not only be extremely costly but would undoubtedly involve the owners of the property in extensive litigation with the Turlock and Modesto irrigation districts.

The evidence presented at the hearing indicates that the cost of placing the ditch system in proper condition to convey water without undue loss in transit would be at least \$27,600; that the annual maintenance and operation expense would amount to \$11,800; and that \$1,000 should be allowed annually to care for depreciation of the property. Yearly revenues, which should be earned to equal annual charges based upon the foregoing items, would be approximately \$15,000, or more than \$53 per acre for the 279 acres now in orchard or crop. This is undoubtedly more than the service is worth to the consumer.

There were filed at the hearing statements from prospective users of water which showed an aggregate acreage which would be irrigated, if a water supply were available, of 2541 acres. The testimony indicates, however, that unless storage reservoirs are constructed there is not available a sufficient supply of water for the irrigation of this acreage and that in several years only a very few hundred acres could be furnished a full supply of water. The evidence also indicates that in the period from 1911 to 1920, inclusive, there would have been sufficient stream flow to permit of a full supply for the irrigation of 1000 acres in only five years of the ten.

These statements also indicated that at the present rate of 15 cents per miner's inch per 24 hours the amount of water which would be used for irrigation purposes was 33,050 inch days, which would be equivalent to a revenue of \$4,957.50 per year, or \$6,842.50 less than the estimated maintenance and operation expense.

It is evident that the area of land under this ditch system which could be furnished a full supply of water is limited, and could not afford to pay the cost of furnishing the supply, also that the construction of

storage reservoirs to increase the area which could be irrigated would not only greatly increase the investment upon which consumers would have to pay a return but would in addition result in extensive and costly litigation.

Upon the question as to whether or not there was a dedication of the water supply to public use the record is conflicting and in some particulars not entirely clear. It appears that although the original owners of the system incorporated in 1856 for the purpose of constructing a canal system for furnishing water for mining, agricultural, mechanical and other purposes, the use of such water as was actually diverted into the ditch was confined almost entirely to mining operations until 1906, and that such irrigation use as occurred, if any, was entirely incidental and subordinate to mining operations.

It is admitted by defendant that subsequent to 1906 water was delivered and sold for irrigation use in varying amounts depending solely upon the available water supply and the uncertain demands of consumers. These sales were relatively small in amount as is indicated by the fact that during the period from 1911 to 1918 inclusive, the average revenue from the sale of water for both mining and agricultural purposes was only \$734 per year; the maximum year being \$1,436 and the minimum \$286. Defendant asserts that such sales were made with the distinct understanding that they would in no way be determinative of a continuing right and could be discontinued at any time. Complainant on the other hand contends that such is not the case and that no understanding of such a nature existed.

The primary and only object of Yosemite Power Company was unquestionably the generation and sale of hydro-electric energy, although some sales of water for irrigation were admittedly made for accommodation purposes. There was submitted in evidence at the hearing an affidavit made April 21, 1913, by Lester R. Wiley, President of Yosemite Power Company, and filed in the office of the Supervisor, United States Forest Service, Stanislaus National Forest, Sonora, California, to the effect that the company "proposed" to deliver through its ditch at least 3000 inches of water for the purpose of irrigating lands under the ditch. A study of this affidavit, however, convinces us that it was made for a purpose connected with the proposed withdrawal of land from the national forest area for homestead purposes and little or no weight can be given it as indicative of intention to dedicate water for public use generally.

There was some evidence to the effect that in 1918 defendant attempted to obtain from the water users in the vicinity agreements to release the company from supplying water to them at any time in the future that it saw fit. There was however no evidence to show that

the attempt to secure these releases was anything other than an endeavor to settle in an amicable manner a controversy between defendant and the landowners along the ditch.

As has been previously stated, the evidence regarding dedication to the general public for irrigation purposes of the waters diverted by this ditch system is extremely contradictory in character, and for that reason very careful consideration has been given to all material factors affecting a determination in the matter. Under the circumstances we are convinced there has been no dedication of water to public use. It also appears, under the conditions of water supply and the probable cost of rendering service, that the delivery of water for irrigation use is an economic and practical impossibility.

The Commission is deeply impressed with the desires of the residents of the Groveland section to develop the country through the application of water to the agricultural lands in the vicinity, but can not disregard the legal and economic aspects of the case, and a dismissal of the complaint is unavoidable.

#### ORDER.

Groveland Water Users Association having made complaint against Yosemite Power Company, a corporation, as entitled above, public hearings having been held thereon, briefs having been filed, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact, that Yosemite Power Company, a corporation, is not a public utility, subject to the jurisdiction of this Commission, and that under present water supply and operating conditions, the irrigation of lands from the ditch system of defendant herein is an economic impossibility.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding order;

*It is hereby ordered*, that the above entitled complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of July, 1923.

## DECISION No. 12420.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN INVESTIGATION OF THE REASONABLENESS OF THE RATES CHARGED BY APPLICANT FOR NATURAL GAS SUPPLIED TO ITS SOUTHERN DISTRICT, CONSISTING OF THE CITIES OF WILMINGTON, LONG BEACH, SEAL BEACH, SAN PEDRO AND CONTIGUOUS TERRITORY, AND FOR AN ADJUSTMENT THEREOF.

Application No. 8638.

CITY OF LONG BEACH, A MUNICIPAL CORPORATION,

vs.

SOUTHERN COUNTIES GAS COMPANY, A CORPORATION.

Case No. 1874.

Decided July 31, 1923.

**RATES—GAS UTILITY—REDUCTION OF 15 PER CENT JUSTIFIED BY LARGE PRODUCTION OF NATURAL GAS.**—The Southern Counties Gas Company having applied to the Commission to fix reasonable rates for gas service in Long Beach and vicinity, and the city of Long Beach having complained against the rates of that company, the Commission ordered a reduction of the domestic gas rate 15 cents per 1000 cubic feet, or 15 per cent, effective for meter readings taken on or after September 1, 1923.

The order provides for a reduction of the top rate from \$1 to 85 cents per 1000 cubic feet and for the consumption of 1000 to 5000 cubic feet from 90 cents to 75 cents per 1000 cubic feet.

The Commission also ordered a reduction in the oil field service rate from 25 cents to 20 cents per 1000 cubic feet and ordered a reduction in the "limited industrial rate," which covers service to industries where gas fuel is essential to continued operation, such as metal working processes, glass manufacture, special tile manufacture, etc., from a rate of \$15 per month plus 40 cents per 1000 cubic feet to \$10 per month plus 35 cents per 1000 cubic feet.

The Commission finds in its decision that, due to the very large production of gas in the Signal Hill oil fields since the rates now in effect were fixed, a reduction has occurred in the cost of production sufficient to justify the above reductions in rates.

The Commission points out that the consumers should not be burdened with the high cost of gas fuel supplied by the Industrial Fuel Supply Company, based upon contracts made prior to the development of the Signal Hill field, and determines the rates upon a lower cost of gas than that provided for in the former contracts.

*LeRoy M. Edwards*, for Applicant.

*Geo. L. Hoodenpyl*, for City of Long Beach.

*Milton Bryan*, for City of Los Angeles.

**BRUNDIGE AND WHITTLESEY**, Commissioners.

**OPINION.**

This proceeding involves an application by Southern Counties Gas Company of California for an investigation of its rates in its southern district and adjustment thereof and a complaint by the city of Long Beach alleging that present rates are unjust.

The Gas Company, in its application, filed February 2, 1923, sets forth that during the preceding year there has been developed at Signal Hill a large volume of natural gas which is available to applicant for distribution in Long Beach and vicinity; it further states that officials

of the city of Long Beach feel that existing rates are excessive, and applicant therefore asks that the Railroad Commission investigate the matter and fix just and reasonable rates.

The complaint of the city of Long Beach filed on February 9, 1923, alleges that the rates last established by Decision No. 9021, of the Railroad Commission dated May 28, 1921, are now unjust and exorbitant because of changes in conditions which have occurred since that time. It is alleged that an adequate supply of natural gas, at lower prices than formerly paid, is now available to the Gas Company from the Signal Hill field, thereby making unnecessary the transmission to Long Beach of high-priced gas from remote fields. Complaint is further made in regard to the service connection fee of fifty cents now charged for the turning on of gas service. It is further alleged that a number of other factors have, since the last fixing of rates, contributed to reduce the cost of service.

Because of the fact that San Pedro and Wilmington are parts of the city of Los Angeles and are also served with gas by applicant and defendant herein, the city of Los Angeles joined as a party plaintiff in this proceeding.

From studies of natural gas production in southern California oil fields made by the Commission's engineers, it has recently become apparent that a very material change of conditions has occurred in regard to purchase of natural gas by Southern Counties Gas Company for its southern district. Shortly after the filing of this complaint and application, work was commenced by the Railroad Commission to prepare a valuation of the gas properties of Southern Counties Gas Company in this district. However, because of the delay which would result if the hearing of these matters should be withheld until the completion of this valuation, the Commission has deemed it advisable to proceed with the investigation at this time and to establish rates upon the evidence before it, by an ad interim order and subject to the reopening of the matter upon completion of the valuation.

Evidence was submitted by Mr. A. F. Bridge, rate engineer for applicant and defendant, covering the operating revenues and expenses of the southern district of Southern Counties Gas Company, together with estimates of probable future gas requirements and sales, both domestic and industrial. Testimony was given by Mr. R. B. Moran, consulting geologist, in regard to studies made of the probable duration of natural gas production at Signal Hill in sufficient volumes to meet the local needs of the Gas Company. This testimony indicated a very rapid decline of gas production in the local field and predicted that after June 1, 1927, the average daily gas production would be less than 15,000,000 cubic feet.



An analysis of operating costs and preliminary estimates of the cost of service for the year ending March 31, 1924, were presented by the Commission's gas engineer, H. L. Masser. Further testimony was given by Mr. Masser relative to estimated future gas production of the Signal Hill field which pointed to slightly greater future gas production than anticipated by Mr. Moran.

The board of public utilities of the city of Los Angeles submitted a report alleging that the present rates of Southern Counties Gas Company in its southern district are excessive, and also questioning the purchase price of natural gas and the methods of financing of Southern Counties Gas Company through sale of securities.

The report of Mr. Masser directed attention to the prices now being paid by Southern Counties Gas Company to Industrial Fuel Supply Company for a large portion of the gas procured from that company at Signal Hill for use in Long Beach and vicinity. These prices of 25 cents per Mcf. for the first one million cubic feet purchased per day, 24 cents per Mcf. for the next one million cubic feet, 23 cents per Mcf. for the next three million cubic feet and 15 cents per Mcf. for all in excess of five million cubic feet purchased per day (with the exception of the 15-cent rate) are in accordance with the terms of a contract entered into several years ago at which time all of the gas was transported a considerable distance to Long Beach. There has been developed during the past year at Signal Hill a tremendous volume of natural gas, much of which can now be purchased at low prices. Approximately eighty per cent of the gas which is purchased by Southern Counties Gas Company for the Long Beach district is at these lower prices. At the present time retail rates for the service of industrial gas by distributing companies have generally been reduced expressly for the purpose of meeting the existing situation of overproduction of natural gas and the low competitive price of oil fuel. In view of the existing circumstances, it appears reasonable that Industrial Fuel Supply Company should, at least temporarily, reduce materially its prices for natural gas sold at Long Beach to Southern Counties Gas Company. Local consumers should not be required at this time to pay rates based upon these higher charges. Recognition of a lower price for such limited amount of gas as may be required from the Industrial Fuel Supply Company will be taken in the determination of the rates herein.

In order to assure to its consumers an adequate gas supply, applicant has been obliged to enter into contracts requiring the purchase of certain definite minimum quantities of gas per day from various producers, the largest of which is a minimum obligation of 16,000,000 cubic feet per day provided by the terms of a contract between the Jergins Trust Company, the city of Long Beach and Southern Counties



Gas Company. Applicant finds itself confronted with an obligation to purchase more gas than it will be able to sell at the present time. Testimony indicates that diligent efforts were made by the Gas Company to secure a lower minimum requirement in the above referred to contract. However, such negotiations were unsuccessful, and as it was considered essential to obtain an assured gas supply from this source, it was therefore found necessary to accept the terms of the above mentioned obligation. It appears that under such circumstances as this, that if the utility has exercised sound business judgment, it should be permitted to include as a part of proper operating expenses the cost of a reasonable volume of such excess gas if purchased at a fair price. The average price determined herein for all gas purchased for use in the Long Beach district is less than ten cents per thousand cubic feet.

As stated above, the Railroad Commission is now engaged in preparing a valuation of the gas properties in applicant's southern district; however, it will be several months before this work is completed. It has therefore been considered advisable to proceed with the fixing of rates at this time based upon the values previously found by the Commission in Decision No. 5539, Opinions and Orders of the Railroad Commission, volume No. 15, page 930, to which book figures of net additions and betterments have been made, thereby arriving at a tentative value of fixed capital in this district as of March 31, 1922, of \$3,061,267.30. From this figure should be deducted the sum of \$37,500 as the amount of consumer's deposits held by the Gas Company, and to the balance must be added an estimated amount to cover the mean value of additions to capital subsequently installed and operative for the rate year herein considered ending June 30, 1924. For this purpose an estimated figure of \$475,000 is used. Further allowance of \$90,800 for materials and supplies and \$129,000 for working cash capital are to be included, making a total figure for tentative rate base for the year of \$3,756,067.30.

From careful studies made by the Commission's gas department and from evidence and testimony in the proceeding it appears that within a short time there will be a rapid decline in gas production at Signal Hill and further the present great drilling activity in the oil field will have been discontinued as the field becomes more completely developed. This situation will have a very material effect upon applicant's revenues derived from the sale of gas for oil field operations and after a few years this class of business at Signal Hill will have almost completely ceased.

After consideration of the conditions involved in the service of industrial gas in applicant's southern district and giving attention to certain modifications of industrial rates hereinafter set forth, it appears that Southern Counties Gas Company should during the year ending

June 30, 1924, receive a revenue of \$565,065 from industrial gas sales, merchandising and miscellaneous sources.

The estimated total cost of domestic and industrial gas service in applicant's southern district for the year ending June 30, 1924, is shown by the following figures:

Estimated total cost of service.....	\$1,703,096 00
Estimated gross revenue from industrial gas sales.....	565,065 00
Estimated gross revenue required from domestic gas sales.....	\$1,138,031 00

The present domestic rates in effect for applicant's southern district are as follows:

First	1,000 cubic feet or less per meter per month.....	\$1 00
Next	4,000 cubic feet or less per meter per month.....	90 per Mcf.
Next	10,000 cubic feet or less per meter per month.....	80 per Mcf.
Next	35,000 cubic feet or less per meter per month.....	70 per Mcf.
All over	50,000 cubic feet or less per meter per month.....	60 per Mcf.

A service connection charge of \$0.50 per meter is made for the connection of all new or resuming consumers. Considerable objection has arisen to the collection of the \$0.50 service connection charge which was established by the Commission's Decision No. 9021, at applicant's suggestion as a means toward providing an equitable distribution of service expense occasioned by the relatively large number of transient consumers in Long Beach and San Pedro. No evidence was introduced which would justify the discontinuance of this charge which if discontinued would necessarily be reflected in rates paid by the permanent consumers. The charge will be continued.

A study of industrial gas rates indicated that modification should be made in applicant's present schedules:

"Class A Industrial Service—Limited" which now provides for a charge of 40 cents per thousand cubic feet with an additional readiness-to-serve charge of \$15 per meter per month, and schedule No. 2-E providing for the service of gas for oil field purposes at a present net rate of 25 cents per thousand cubic feet. It is the opinion of this Commission that these rates should be reduced to make them conform more nearly with existing conditions and the cost of the service rendered.

We submit the following form of order:

#### ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for an order revising its rates and charges for gas in its southern district, and complaint having been filed with the Railroad Commission by the city of Long Beach and joined in by the city of Los Angeles alleging that present rates charged by Southern Counties Gas Company in the southern district are exorbitant and unjust, public hearings having been held and the matter having been submitted and being now ready for decision by an ad interim order pending the

completion of the valuation of applicant's properties, at which time the proceeding may be reopened:

The Railroad Commission hereby finds as a fact that the rates now being charged by Southern Counties Gas Company of California in its southern district in so far as they differ from the rates herein established are not just and reasonable rates for the sale of gas for domestic, commercial and industrial purposes.

Basing its order upon the foregoing findings of fact contained in the opinion which precedes this order;

*It is hereby ordered*, that Schedules No. "2 A", "2 E", and "Class A Industrial" of Southern Counties Gas Company of California for sale of gas in its southern district for domestic, commercial and industrial purposes be canceled and superseded by following schedules, effective for all regular meter readings taken on and after the first day of September, 1923.

#### SCHEDULE No. 2-A.

##### Southern District.

##### *General service.*

Applicable to domestic and commercial service for lighting, heating and cooking, including restaurants, apartment houses, hotels, hospitals, sanitarium, business buildings of all kinds, schools and churches.

##### *Territory.*

Applicable to southern district including Long Beach, Seal Beach, Wilmington, San Pedro and adjacent territory.

##### *Rate.*

First	1,000 cubic feet or less per meter per month-----	\$0 85
Next	4,000 cubic feet per meter per month-----	75 per Mcf.
Next	10,000 cubic feet per meter per month-----	70 per Mcf.
Next	35,000 cubic feet per meter per month-----	65 per Mcf.
All over	50,000 cubic feet per meter per month-----	60 per Mcf.

##### *Special conditions.*

Consumers served under this schedule have priority in the use of gas over consumers served under schedules No. 2-B, No. 2-C, and No. 2-D at times when there is insufficient gas to supply the demands of all consumers.

A service connection charge of \$0.50 per meter is made for the connection of all new or resuming consumers.

#### SCHEDULE No. 2-E.

##### *Oil field service.*

Applicable to service requiring the use of gas for pumping or drilling oil wells, or for other oil field operations.

##### *Territory.*

Applicable in the Long Beach district including the Signal Hill oil field or extensions thereof.

##### *Rate.*

20 cents per 1000 cubic feet.

##### *Minimum charge.*

\$50 per meter installation per month, or a cumulative minimum of \$600 per year. Minimum total use of gas at each meter installation, \$500.

***Special conditions.*****Character of service.**

Measurement based upon the unit of 1000 cubic feet of gas at 4-ounce pressure above atmosphere. Only surplus natural gas is available for consumers under this schedule. Consumers supplied under this schedule are subject to shut-off without notice in the event of a threatened or actual shortage of gas, and the company will not be liable for damages occasioned by shutting off the gas supply. Such consumers will be expected to keep a supply of other fuels on hand.

**CLASS "A" INDUSTRIAL SERVICE—"LIMITED."****Southern District.*****Industrial gas service.***

Applicable to industrial service on existing mains having a delivery capacity in excess of the present requirements of consumers served under Schedule 2-A. For natural gas used for purposes where gas fuel is essential to continued operation such as metal working processes, glass manufacture, special tile manufacture and the preparation of food products.

***Territory.***

Applicable to southern district including Long Beach, Wilmington, San Pedro and adjacent territory.

***Rate.***

Readiness-to-serve charge: \$10 per meter per month.

Plus consumption charge: 35 cents per 1000 cubic feet.

***Special conditions.***

(a) Service under this schedule will be granted only subject to approval by the Railroad Commission of the State of California.

(b) Service under this schedule has priority over other industrial service, but is subject to discontinuance in case of necessity in favor of domestic service.

*It is hereby further ordered*, that Southern Counties Gas Company file with the Railroad Commission on or before August 23, 1923, the schedule of rates and charges herein above set forth.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of July, 1923.

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**DECISION No. 12358.**

POSTAL TELEGRAPH-CABLE COMPANY, A CORPORATION,

*vs.*

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

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**Case No. 1362.**

Decided July 14, 1923.

*Willard P. Smith and Walthon C. Webb*, for Complainant.  
*O. P. Cutton*, for Defendant.

**MARTIN**, Commissioner.

**OPINION.**

This is a proceeding in which Postal Telegraph-Cable Company, complainant, hereinafter referred to as Postal Company, makes formal

complaint against Pacific Gas and Electric Company, defendant, hereinafter referred to as Pacific Company, alleging that by reason of the proximity of the power lines of Pacific Company to the communication lines of the complainant, and to the conditions of defendant's lines that the communication circuits are so affected, due to electric induction, that the transmission of telegraphic messages is interfered with, the speed in sending messages greatly reduced, and equipment and apparatus destroyed.

Complainant further alleges that by reason of defective condition of defendant's line that it is compelled to spend large sums to equip and maintain its telegraph lines with devices to prevent, as far as possible transient and permanent electrical induction and damage therefrom to its lines and equipment.

Complainant requests this Commission for an order requiring defendant to repair, reconstruct and equip its power lines so as to prevent surges thereon and on the portion of its lines between the cities of Sacramento and Suisun, and induction therefrom to the line of complainant between the cities of Sacramento and Suisun or require the defendant to remove its line between said cities a sufficient distance from complainant's line to prevent induction thereto; to give such other further and different relief as may appear just in the premises and to repay to it the cost, disbursements, and expenses of this application unnecessarily incurred by complainant.

In the following opinion and order certain technical terms are employed in the senses as set forth in the definitions in this Commission's General Order No. 52.

The parallel under consideration in this case involves the 60-kilovolt power circuits of Pacific Gas and Electric Company and certain telephone and telegraph communication circuits of Postal Telegraph-Cable Company located between the cities of Sacramento and Suisun for a distance of approximately forty miles. Both the power and communication circuits follow for practically the entire distance within the parallel along the right of way of Southern Pacific Company. Between the cities of Sacramento and Davis, a distance of approximately thirteen miles, the power line of Pacific Company consists of a single three-phase, 60-kilovolt power transmission line commonly known as Bay Line No. 3. Between the cities of Davis and Suisun, a distance of of approximately twenty-seven miles, the power line consists of a twin three-phase, 60-kilovolt power transmission line located on separate pole lines paralleling each other and with a horizontal separation of approximately thirty feet between center lines. These sections of transmission lines are commonly known as Bay Lines Nos. 1 and 2.

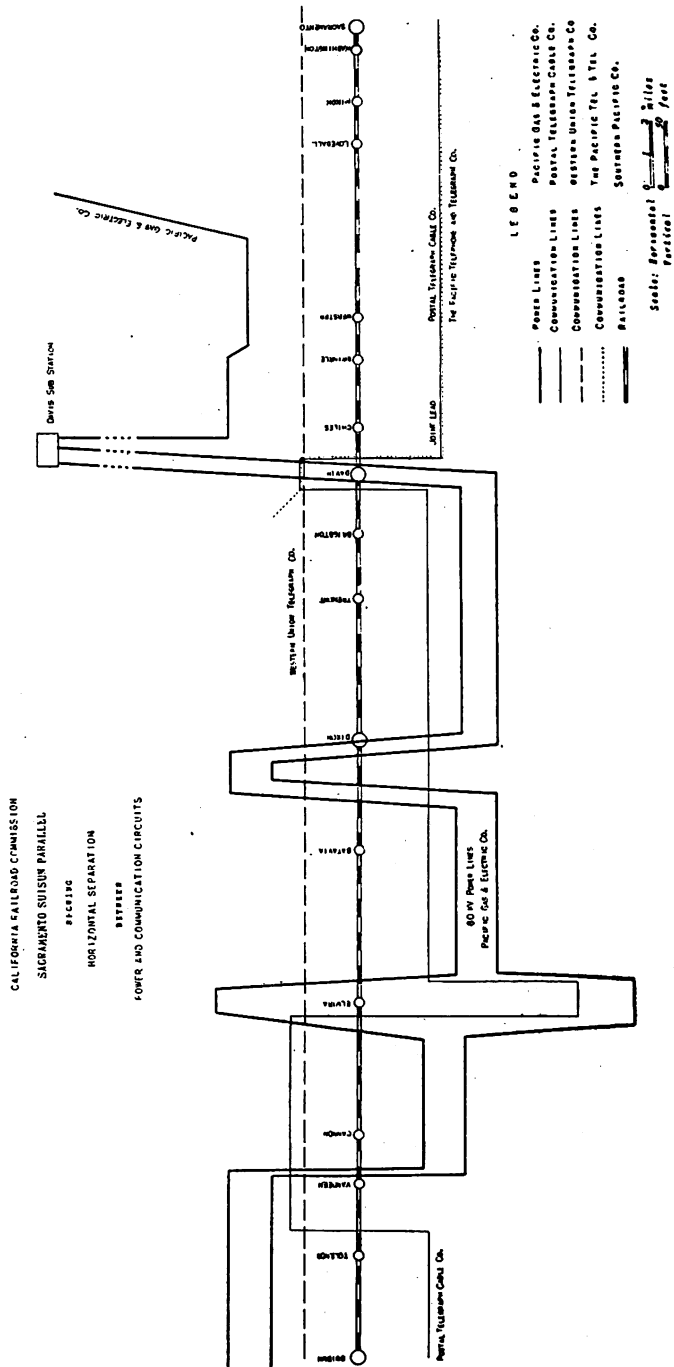
Bay Lines Nos. 1 and 2 each consists of three No. 00 bare copper wire. The configuration of each circuit is an equilateral triangle with con-

ductors spaced six feet apart. The average height of the two lower conductors is thirty feet above ground, measured at the poles. Bay Line No. 3 consists of three No. 1 bare copper wire. The configuration is an equilateral triangle with conductor spacing six feet apart. The average height of the two lower conductors above ground is forty feet, measured at the poles. The top wire of the configuration of each circuit is fastened to an insulator located on a pipe extending approximately forty-six inches above the top of the wooden pole.

The Postal Company's communication circuits involved in this parallel consists of nine wires extending between the cities of Suisun and Davis and seven between the cities of Sacramento and Davis. Two of these wires are composited to form a telephone circuit. All of the telegraph circuits involved in this parallel extend from San Francisco, seven going east via Salt Lake and Denver and two going north via Ashland to Portland, Seattle and points east. Between the cities of Davis and Sacramento the communication circuits of Postal Telegraph-Cable Company are jointly constructed with certain communication circuits of The Pacific Telephone and Telegraph Company on the same pole line. In addition to the communication circuits of the Postal Company, The Pacific Telephone and Telegraph Company, and the Western Union Telegraph Company have certain communication circuits and Southern Pacific Company certain signal circuits located within this parallel herein under consideration. Although these other utilities are not parties to this proceeding, yet their circuits must be given consideration by this Commission in deciding this case.

Drawing No. 1 shows diagrammatically the relative location of the transmission lines of the Pacific Company and communication lines of complainant, The Pacific Telephone and Telegraph Company and Western Union Telegraph Company. As a matter of convenience, the center line of the railroad tracks of Southern Pacific Company has been used as a base line in this proceeding when referring to the location of power and communication circuits.

It will be noted by referring to Drawing No. 1 that the power lines between Sacramento and Davis are located to the north of the railroad right of way. At Davis this line joins the twin line which extends to Suisun and beyond. Between Davis and Suisun, however, these two circuits cross the Southern Pacific right of way and also the communication circuits of the various utilities involved at five different points. These transmission lines involved in this parallel form a part of an extensive high voltage transmission system of the Pacific Company for transmitting electric energy from its various power plants located in the Sierra Nevada Mountains to the Sacramento Valley and San Francisco Bay region.



Evidence in this proceeding shows that Bay Line No. 3 between Sacramento and Davis was constructed by California Gas and Electric Corporation in about the year 1904, and since that time has been constantly in operation. Bay Lines Nos. 1 and 2, between Suisun and Davis, were constructed by Bay Counties Power Company in the year 1900 and since that time have been constantly in operation. The evidence also shows that communication circuits of Postal Company were constructed in the present location in the year 1866. Complainant in this proceeding acquired these lines on about June 23, 1908, and since which time it has constantly operated these lines. Table No. 1 shows the relative horizontal separation between the transmission and the communication and signal lines of other utilities involved in this parallel.

Inductive troubles reported by Postal Company as occurring on its communication circuits involved in this parallel resulting from operation on the power system of Pacific Company were first officially brought to the attention of this Commission by the Postal Company in April, 1919, Since that time the Railroad Commission has required Postal Company to file reports regarding each particular trouble as it occurred and also Pacific Company to submit information relative to the operations of their system which might in any way cause resulting trouble on the Postal Company's circuits.

TABLE No. 1. Horizontal Separation Between Power and Communication Lines.

Location	Power circuit	Length of parallel miles	Horizontal separation in feet between power line and lines of		
			Postal Co.	Pacific Tel. and Tel. Co.	Western Union Telegraph Co.
Sacramento-A	Single	6½			
A-Swingle	Single	3½	140	140	40
Swingle-Davis	Single	3½	155	155	55
Davis-Dixon	Twin	8	24		115
Dixon	Twin	2	115		25
Dixon-Elmira	Twin	5½	22		110
Elmira	Single	1½			
Elmira-Vandeen	Twin	4½	95		85
Vandeen-Suisun	Twin	5½	115		25
Total		40			

NOTE—Distances given in above table are approximate distances. Horizontal separations are measured between communication and center line of nearest power line.

Complainant in this proceeding seeks relief by order of this Commission requiring defendant to mitigate the inductive interference in complainant's communication circuits and by the granting of compensation for resulting damage to its equipment caused by inductive interference, and by the payment to it of certain sums covering its cost of this proceeding.

Relative to the matter of damages to be allowed the Postal Company as a result of inductive interference due to the paralleling power circuits



of Pacific Company this Commission does not exercise jurisdiction to determine damages. Such action must be taken in the court of proper jurisdiction. Complainant's request in so far as it pertains to compensation for damages to equipment or for loss of service will therefore be denied without prejudice. This Commission has not jurisdiction to grant compensation covering the cost of a proceeding and, therefore, Complainant's request relative to this item will be denied.

The power circuits between Sacramento and Davis were originally constructed in 1904 and between Davis and Suisun in 1900. To maintain these circuits in a reasonably good operating condition a relatively large annual expense is required. During the past year the Pacific Company has reconstructed this entire line. The Commission's engineers have made an investigation of these power lines of the Pacific Company and the communication circuits of the Postal Company relative to their construction as complying with Chapter 499-600 of the State Statutes and General Order No. 64 of the Commission.

A considerable number of violations of the state laws exist on the power lines. Under the present orders of the Commission these violations must be removed during the present year and it appears advisable that any change in line construction necessary to mitigate inductive interference in the communication circuits should be made at the same time.

The evidence indicates that the inductive trouble experienced by the Postal Company in its communication circuits between the cities of Sacramento and Suisun is largely due to the relatively small horizontal separation between these circuits and the paralleling power circuits of defendant. This induction into the complainant's communication circuits due to the paralleling power lines of defendant may be mitigated by the prevention of the conditions creating the induction, suppression of induction in the communication circuits, discontinuance of the operation of the power circuits, or separation of power and communication circuits.

The prevention of the conditions creating induction involve, to a certain extent, proper switching methods, correct design of transformers and other apparatus, employment of good line construction, selection of the best type of circuit configuration and the employment of coordinated system of transpositions. Care in these matters will largely mitigate normal and certain classes of abnormal induction but are not adequate against line failures which cause induction difficult to guard against. A consideration of the evidence indicates that little further can be economically gained by the preventions of the conditions creating induction. It also appears that the Postal Company has used and is using all reasonable means for the suppression of induction.

The discontinuation of the operation of power circuits will result in a total elimination of all induction which may result from the operation of the power circuits. The power lines in question are not, at the present time, used by the Pacific Company as the main supply lines but are used to a certain extent in the nature of tie lines and as an emergency supply line in case of interruption of other circuits and also to supply intermediate points between Sacramento and Suisun. The elimination of interference by this means does not appear entirely practicable.

Abnormal induction in the communication circuits of complainant are not necessarily caused by line failures occurring on that section of defendant's line between Sacramento and Suisun, but such disturbances may result from some abnormal condition occurring on portions of defendant's transmission net-work located outside of the parallel.

Proper separation of power and communication circuits appears to be the only practical and positive means for the prevention of detrimental induction on the Postal Company's system. The evidence shows that certain induction from the Pacific Company's lines was the direct cause of certain trouble occurring in the paralleling communication circuits of the Postal Company.

In the parallel herein under consideration the smallest horizontal separation between center lines of power and communication circuits is about twenty-two feet for a distance of approximately five miles and about twenty-four feet for a distance of approximately eight miles. Such a separation is hazardous not only from the standpoint of induction but also from the possibility of physical contact in the case of failure of any of the power circuits. The location of the lines, as they now exist, would not be allowed by the Railroad Commission if the lines of either utility did not exist and that utility was now applying for permission to so locate its lines. The Railroad Commission has never defined a minimum horizontal separation which shall exist between power and communication circuits because it has been its belief that such circuits should, at all times, be kept as far away as possible and should only be allowed in close proximity with one another in those cases where no other means of avoiding the parallel are available.

From the evidence in this proceeding and from certain tests made by the Commission's engineers to determine the relative magnitude of the interference induced in the communication circuits of the Postal Company, this Commission is of the opinion that a large portion of the trouble experienced by complainant and the almost continuous induction existing in complainant's circuits involved in this parallel are largely due to the small separation between circuits of defendant and complainant and, further, that this condition can only be properly

remedied, so that satisfactory operation of complainant's lines will result, by increasing the horizontal separation between defendant's and complainant's circuits, particularly in those locations where both power and communication circuits are located on the same side of the Southern Pacific Company's right of way between the cities of Sacramento and Suisun, unless the Pacific Company will abandon the operation of its power lines. Before such an order could be given to effect this change the Western Union Telegraph Company and The Pacific Telephone and Telegraph Company and Southern Pacific Company should be given an opportunity to submit their views and plans, as any change in the location of any existing circuit involved in this parallel will affect all other circuits therein located.

It is, therefore, advisable that any final decision in this matter specify exact changes to be made. The Railroad Commission will direct its engineering department to call a joint conference of all parties operating either power or communication circuits within the parallel under consideration for the purpose of promulgating plans for the relocation of the circuits within this parallel, so that all power circuits will be located on the opposite side of the Southern Pacific right of way from all other circuits, unless the existing separation can be increased within those sections, particularly between Davis and Elmira.

If any of the existing circuits are to be relocated or moved to some other location, the question of division of cost will arise. Decision on such apportionment of charges, however, can not be made pending the submission of the final plan. This proceeding will be reopened to receive in evidence the report of such a conference and to consider evidence relative to the apportionment of cost resulting from changes requested.

#### ORDER.

Postal Telegraph-Cable Company, having filed a complaint against Pacific Gas and Electric Company, requesting that this Commission order the defendant to repair, reconstruct and equip its power lines so as to prevent surges on that portion of its lines between the cities of Sacramento and Suisun and induction therefrom to the lines of complainant between said cities, or to remove its lines between the cities of Sacramento and Suisun a sufficient distance from complainant's lines between said cities to prevent induction thereto and make such further order and grant whatever relief as may appear just and reasonable in the premises, requiring defendant to pay the costs, disbursements and expenses of this proceeding unnecessarily incurred by complainant and pay damages for interference heretofore resulting, a public hearing having been held and the matter submitted, and it now appearing that final order in this matter relative to remedial measures should be withheld for a period of ninety (90) days, as it now appears that an order which this Commission might make will require changes

in the location of either complainant's or defendant's lines, and may affect the communication and signal circuits of utilities other than those involved in this proceeding, and it further appearing that suitable opportunity should be given such utilities before an order should be issued by this Commission in this matter;

*It is hereby ordered:*

(1) That this complaint in so far as it requests the payment of damages or for the costs, disbursements and expenses of this proceeding necessarily incurred by this complainant, be dismissed,

(2) That a joint conference of all utilities operating either power or communication circuits within the parallel herein considered, be called by the Commission's engineering department for the purpose of promulgating plans for the relocation of the circuits within the parallel as set forth in the opinion preceding this order.

(3) That this proceeding be reopened and set for hearing at the Commission's offices, State Building, San Francisco, on the thirty-first day of August, 1923, for the consideration of evidence relative to the plans for relocating the circuits within this parallel and for the division of cost resulting from such changes.

The foregoing opinion and order hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of July, 1923.

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DECISION No. 12421.

IN THE MATTER OF THE APPLICATION OF F. A. BENNETT AND L. C. FAUS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO FREIGHT TRUCK SERVICE BETWEEN THE CITY OF LOS ANGELES PROPER AND LOS ANGELES HARBOR, STEAMSHIP WHARVES LOCATED AT WILMINGTON AND SAN PEDRO.

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Application No. 8467.

Decided July 31, 1923.

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*Frank M. Smith*, for Applicant.

*Declin and Brookman*, by *Douglas Brookman*, and *Harry N. Blair*, for Hodge Transportation System and Los Angeles and San Pedro Transportation Company.

*C. W. Cornell*, for Pacific Electric Railway Company and Southern Pacific Company.

*Howard Robertson*, for California Truck Company, Pioneer Truck Company, Citizens Truck Company, Star Truck and Transfer Company, and Paul Kent Truck Company.

*Joseph Musgrove*, for Smith Bros. Truck Company.

*T. A. Roach*, for American Railway Express Company.

*SHORE*, Commissioner.

OPINION ON REHEARING.

The above entitled application of F. A. Bennett and L. C. Faus, copartners, is for a certificate of public convenience and necessity

47-24801

authorizing the operation of an automotive truck line as a common carrier of freight between the City of Los Angeles proper and the steamship wharves located at Wilmington and San Pedro, hereinafter referred to as Los Angeles harbor. Hearings were held upon the above entitled application and on March 14, 1923, the Railroad Commission issued its Decision No. 11782 in which the application was denied. On March 21, 1923, a petition for rehearing was filed and a rehearing granted. A rehearing has been held, the matter has been submitted and is now ready for decision.

At the original hearing the application was protested by the Southern Pacific Company, Los Angeles & Salt Lake Railway Company, Pacific Electric Railway Company, the American Railway Express Company, the Hodge Transportation System and Los Angeles and San Pedro Transportation System, the latter two named truck companies operating between the points proposed to be served by applicant. The same companies protested the granting of the application at the rehearing with the addition of certain truck companies at the time operating between Los Angeles and the harbor district, although such companies have no rates on file with the Commission nor have any of them secured certificate of public convenience and necessity authorizing them to engage in the transportation of property for compensation between the points herein proposed to be served.

At the rehearing the matter was submitted upon evidence introduced at the original hearing in this proceeding, together with evidence introduced in Case No. 1871, *Hodge Transportation System et al. vs. Ashton Truck Company et al.*, which case embraced a complaint filed by authorized truck transportation companies against a number of truck companies operating between Los Angeles and the harbor who had secured no certificate of public convenience and necessity authorizing their operation or had not complied with the general orders of the Commission requiring the filing of tariffs of rates under the provisions of section 5 of chapter 213, Statutes of 1917.

The evidence submitted in Case No. 1871, which by stipulation was to be considered in the present proceeding in so far as material, embraced a detailed review of shipping and trucking conditions affecting Los Angeles harbor and the city of Los Angeles. Without reviewing in detail such evidence it is sufficient to state that tonnage moving in and out of the harbor of Los Angeles has increased enormously during the last several years and in fact is materially increasing monthly. Statements of individuals connected with harbor concerns and familiar with harbor conditions were generally to the effect that approximately 40 per cent of tonnage moving into Los Angeles harbor was hauled from the docks by motor truck. Some of these witnesses testified that the

entire rail and truck facilities now available are inadequate to take care of incoming shipments within the desired time.

Unquestionably, in the development of Los Angeles harbor and its terminal facilities, primary consideration was given to the establishment of rail and water connections, and the facilities for loading and unloading trucks are unequal to the needs of the traffic. Nevertheless, the volume of light shipments handled by trucks to and from the harbor is rapidly and greatly increasing, because of their prompt deliveries in less than carload lots.

There are at the present time only three truck companies with tariffs on file with this Commission operating between the harbor and Los Angeles proper. Two of such companies only protested the granting of the present application and introduced evidence. One of these is a limited carrier holding a certificate authorizing the transportation of specific commodities only in lots of not less than three tons and manifestly is not in a position to handle the diversified products received at Los Angeles harbor from water carriers for transportation to the city of Los Angeles proper.

A criterion of the demand for truck service between the harbor and Los Angeles is shown by the fact, admitted by all parties, that in addition to the three carriers who have rates on file with this Commission showing service between the harbor and Los Angeles, there is a large number of other truck companies operating in the transportation of property for compensation, both to and from Los Angeles and Wilmington and San Pedro, many of which are operating, not infrequently but regularly to and from said points.

The decision herein is based primarily upon the evidence on behalf of public convenience and necessity submitted at this proceeding, including the testimony of harbor experts in the hearing of Case No. 1871, stipulated into the evidence in this proceeding, and showing that the entire rail and trucking facilities available, including the operation of so-called unauthorized carriers, are not adequate to meet the present growing demands for the prompt clearing of freight from the harbor docks. It therefore appears in the interest of public convenience and necessity from the standpoint of the shipping companies, the terminals and the business community of Los Angeles, that additional trucking facilities be provided.

In addition, however, this proceeding developed the fact that outside of the defendants in Case No. 1871, a large part of the harbor business is handled by other unauthorized carriers who have continued to ignore the regulatory provisions of the state law in the face of numerous communications from the Commission calling their attention to such violations. Accordingly when an applicant, properly qualified, comes with clean hands and in good faith asking for a certificate of public con-

venience and necessity authorizing him to engage in this class of transportation service, the Commission is disposed to give such an application the consideration that it deserves, with such benefits as accrue to an operator under legal authorization.

It is the duty of all trucking concerns who propose to operate or are operating under conditions which place such operation under the jurisdiction of the Railroad Commission according to state law, to comply with the provisions thereof. It is as well the duty of public authorities to see that the existing state law is duly enforced and to prevent operation in violation of the provisions thereof.

The present applicants have endeavored in every way to comply with the requirements of state law and upon the showing made in the present proceeding we find as a fact that public convenience and necessity require the operation as herein proposed.

#### ORDER ON PETITION FOR REHEARING.

A public hearing having been held in the above entitled matter, evidence submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by F. A. Bennett and L. C. Faus, copartners, of an automotive truck line as a common carrier of freight between Los Angeles proper and Los Angeles harbor (Wilmington and San Pedro), and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is granted, subject to the following conditions:

1. That applicants, Bennett and Faus, copartners, shall file with the Railroad Commission their written acceptance of the certificate herein granted within a period not to exceed ten days from date hereof, and shall file, in duplicate, tariff of rates and time schedules identical with Exhibits "A" and "B" attached to the application herein, within a period not to exceed twenty days from date hereof, and shall commence operation under the certificate herein granted within a period not to exceed thirty days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that Decision No. 11782 be and the same hereby is revoked and annulled.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of July, 1923.

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DECISION No. 12422.

IN THE MATTER OF THE APPLICATION OF A. J. HAPPE FOR AN ORDER GRANTING PERMISSION TO EXTEND HIS PRESENT AUTO TRUCK SERVICE FROM YUCAIPA VALLEY POINTS TO INCLUDE OAK GLEN, BEAUMONT, AND BANNING.

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Application No. 8989.

Decided July 31, 1923.

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*Richard T. Eddy*, for Applicant.

*Warren E. Libby*, for Rex Transfer Company, Protestant.

*A. L. Bartlett* and *F. M. Hodge*, for Hodge Transportation System, Protestant.

*Chas. H. Tribbet* and *Warren E. Libby*, for Coachella Valley Transportation Company, Protestant.

*L. C. Zimmerman*, for Southern Pacific Company, Protestant.

*SHORE*, Commissioner.

OPINION.

In this proceeding A. J. Happe has made application to the Railroad Commission, in which he petitions for a certificate of public convenience and necessity authorizing the operation of an automotive truck service as a common carrier of certain specified commodities between Oak Glen, Yucaipa, Beaumont, Banning and certain other Southern California points, to Los Angeles and Los Angeles harbor, including Wilmington and San Pedro.

Public hearings in the above entitled proceeding were held at Redlands and Los Angeles. Briefs have been filed, the matter has been submitted and is now ready for decision.

The application was amended on June 26, 1923, to include service between the Redlands District, including Redlands, Highlands, East Highlands, Crafton and Bryn Mawr, and all points named in the original application and service between the Yucaipa and Banning district and Los Angeles and Los Angeles Harbor. At the hearing upon this application it was further amended to eliminate from the service proposed the transportation of deciduous fruits from Oak Glen and Yucaipa to the harbor district. Applicant's petition was further amended to eliminate Banning as a point proposed to be served. Applicant further amended his Exhibit "A", which listed the various commodities proposed to be transported. The amendment was to provide for the transportation of only the following commodities: Deciduous fruits, citrus fruits, honey, fertilizer, shook, wall board, packing house



supplies, roofing material and empty containers. The rates proposed to be charged are based upon a mileage scale, the various commodities to take certain percentages of the rates as originally proposed in Exhibit "A".

The granting of the application was protested by the Rex Transfer Company, Hodge Transportation System, Coachella Valley Transportation Company and Southern Pacific Company. Applicant introduced evidence with reference to the necessity of the service which he proposes to render, particularly with reference to the movement of citrus fruits from the Redlands-Highlands District to Wilmington and San Pedro, hereinafter referred to as Los Angeles harbor; also with respect to the movement of deciduous fruits, particularly apples, from the Yucaipa-Oak Glen district to cold storage plants located at Los Angeles, Redlands, Riverside and San Bernardino, and of pears, cherries, etc., and other deciduous fruits from the Beaumont district to the above named storage points. Little, if any, evidence was introduced by applicant to the effect that public necessity existed for the transportation of wall board and roofing materials from Los Angeles to the points between which applicant proposes service.

Various protestants, hereinabove named, also submitted evidence with reference to their rates and the service which they were rendering or were willing to render to care for the movement of the various commodities proposed to be transported by applicant herein, briefs being filed on behalf of Coachella Valley Transportation Company and the Hodge Transportation System, together with a reply brief on behalf of applicant. The briefs as filed, taken collectively, fairly cover the evidence produced in this proceeding. The principal contention of the Hodge Transportation System, Rex Transfer Company and Coachella Valley Transportation Company, was to the effect that such concerns have adequate equipment and are ready and willing to care for all the traffic requirements between the various points covered by the certificates which they now hold and which together cover most of the points involved in the application.

The Hodge Transportation System holds a certificate authorizing it to engage in the transportation of agricultural products, together with return loads of fertilizer, packing house materials, etc., covering all points proposed to be served by applicant herein, with the exception of Oak Glen.

The Rex Transfer Company holds a certificate authorizing it to engage in the general transportation of freight between Yucaipa, San Bernardino, Redlands and Los Angeles. The certificate held by that company does not permit the transportation of property to or from Los Angeles harbor.

The Coachella Valley Transportation Company operates a freight truck line for the transportation of all classes of freight between Mecca and Los Angeles and certain intermediate points, including Beaumont, San Bernardino and Riverside. This applicant, however, does not desire to transport general freight to or from San Bernardino or Riverside but to limit his operations to the transportation of the particular commodities hereinabove described.

Applicant herein filed with this Commission in September, 1919, a tariff of rates covering the transportation of apples between Yucaipa and Los Angeles, this tariff having been filed in conformity with the provisions of section 5, chapter 213, Statutes of 1917, as amended by chapter 208, Statutes of 1919. On March 31, 1923, upon application filed, applicant was granted a temporary certificate authorizing him to engage in the transportation of citrus fruits from the Redlands-Highlands district to Los Angeles, and he has been engaged in the transportation of the above named commodity during the period covered by his tariff filings. The evidence shows that he has been engaged in local transfer work in the Redlands district for the last twenty-one years, particularly specializing in the transportation of both citrus and deciduous fruits between producing centers and warehouses and cold storage plants.

In the brief of the Hodge Transportation System considerable stress is placed on the fact that applicant operated unlawfully for a considerable time prior to the filing of his application. Further, that his tariff filing as of September, 1919, does not establish a valid operating right under which he could be authorized to engage in the transportation of property for compensation between the points covered by said tariff, nor could the Commission lawfully grant him an extension or enlargement of such claimed operative right in that it was not filed as of May 1, 1917, in accordance with the provisions of the original statutory enactment governing the operation of automotive stage and truck companies. This, we believe, is in error. The operations conducted by this applicant in the transportation of deciduous and citrus fruits between Yucaipa and Los Angeles was not strictly as a common carrier as originally defined in section 5, chapter 213, Statutes of 1917, but did come under the regulatory provisions of the act as amended by the legislature of 1919, known as chapter 208. Immediately upon applicant's attention being called to the provisions of said legislation, he proceeded to file tariffs covering the operations in which he was engaged at the time. It is true that his operations were later enlarged to some extent, but evidence was introduced to the effect that upon applicant's attention being called to the necessity of a certificate covering his enlarged operations such an application was immediately prepared and

filed. Accordingly, we are of the opinion and find as a fact that applicant at this time has a legal right to engage in the transportation of deciduous fruit between Yucaipa and Los Angeles under tariff now on file.

In view of the fact that there was no protest against the establishment of service between Oak Glen and Los Angeles, and further as a stipulation was entered into by attorney for applicant that he would eliminate from his proposed application the petition to extend the Oak Glen-Yucaipa service beyond Los Angeles to the harbor district, we are of the opinion that a further review of the testimony with reference to this territory is unnecessary.

With reference to the transportation of deciduous fruits from Beaumont district to Los Angeles and the harbor, this particular operation was protested by the Coachella Valley Transportation Company and by the Southern Pacific Company. The evidence clearly shows that truck transportation can more satisfactorily care for the movement of fresh fruits from packing houses to markets or cold storage plants than the railroads can. Coachella Valley Transportation Company has operated between Beaumont and Los Angeles for some time past, but from the evidence introduced in this case it has confined its operations principally to the transportation of general merchandise and has made no great effort to secure or care for the transportation of fresh fruits from Beaumont packing houses to Los Angeles markets nor has it established time schedules suitable for this movement. Applicant herein, however, has in the past, as was shown in the evidence, afforded satisfactory service to shippers in this territory, and we are of the opinion and find as a fact that the evidence in this proceeding warrants a continuation of this service.

Considerable evidence was introduced by applicant with reference to the necessity of a continuation of his operations under a temporary certificate from the Redlands district to Los Angeles and Los Angeles Harbor. This particular operation was strongly protested by the Rex Transfer Company and the Hodge Transportation System. Practically the entire movement of citrus fruits between the points hereinabove mentioned is to Los Angeles Harbor for water shipment, and accordingly with reference to westbound movements the Rex Transfer Company's protests would have little effect, in that such company has no operative right authorizing it to transfer property for compensation to or from the harbor. Applicant, however, also proposes to engage in the transportation of fertilizer, packing house supplies, etc., a considerable portion of which movement is from the city of Los Angeles proper to Redlands district, a territory at present being served by the Rex Transfer Company. This company submitted an exhibit showing in detail the tonnage capacity of its equipment, together with the ton-

nage handled during different periods of time. Eastbound tonnage hauled by the Rex Company is considerably in excess of its westbound tonnage, the eastbound amounting to approximately 80 per cent of their equipment capacity while the westbound tonnage amounts to a very small percentage of their equipment capacity. This protestant's showing is illustrative of the failure of some existing transportation companies to efficiently and aggressively solicit the territory through which they operate. This company's exhibit shows an enormous amount of empty truck tonnage moving westward to Los Angeles, due to the fact that applicant transports very heavy shipments eastbound and is obliged to send its equipment into Los Angeles very lightly loaded to meet their time schedule for eastbound movements. This condition unquestionably existed during the entire period of this protestant's operation, but it has never, up to the hearing upon this application, established or offered to the shipping public in the Redlands or San Bernardino territory special commodity rates which would attract to it heavy tonnage in fruit or other commodities which are grown in this territory and must move to Los Angeles markets.

This particular territory, that is the Redlands-Highlands district, is also covered by the certificate held by the Hodge Transportation System. The Hodge Transportation System has been operating for approximately six years, last past, though a certificate was only granted in the middle of 1922, its tariff of rates becoming effective as of July 1, 1922. The Hodge Transportation System has headquarters in the city of Los Angeles and also maintains a branch office in the city of Riverside but none in Redlands. Its rates for transportation of citrus fruits, etc., from the Redlands-Highlands district to the harbor district, though reduced during the last year, are still materially higher per ton than those proposed by applicant herein. Shippers of citrus fruits from the Redlands district lay great stress upon the fact that they frequently receive orders for shipments of carloads of citrus fruits to North Pacific Coast ports by water carriers, which necessitate immediate spotting of trucks at packing plants, frequently late in the day or in the evening, to enable the shipment to reach Los Angeles harbor for loading upon steamers for which the shipment was designated for water movement. These shippers uniformly stated that they could not depend upon the service of the Hodge Transportation System in these frequent emergencies, due to the fact that their equipment was not stationed at Redlands in close proximity to the citrus packing plants, nor had the Hodge System a local agent and if its services were required the shippers would be obliged to telephone either to the Riverside or the Los Angeles office, at considerable delay, and then they would not be assured of having equipment immediately available. Further, if trucks were ordered and a proposed shipment canceled at the last moment, under the rules

and regulations of the Hodge Transportation System, the shippers would be obliged to pay cancellation charges covering the equipment ordered if dispatched, which, due to the long distance between the packing plant and the offices of the Hodge System, would amount to a material figure, whereas, though the same cancellation charges were provided for in the rules and regulations of the applicant, it was seldom if ever necessary to pay such charges due to the fact that the local concern could be readily notified and to the further fact that equipment would not have to be started until a short time prior to the time for which it was ordered. We might further call attention to the fact that the evidence introduced by the Hodge Transportation System is clearly to the effect that this company, during the last shipping season, has received practically no shipments whatever of citrus fruits to the harbor, in the face of their claimed ability to promptly and efficiently handle such shipments. We can not but take actual conditions, to a considerable extent, as a criterion of the demands of the shipping public, and when a record shows as clearly as this one does that shippers of the Redlands district have consistently, over a considerable period of time, failed to avail themselves of the service which has been widely advertised, and have consistently insisted upon the transportation of their shipments by local drayage concerns, there must be sound business reasons for the position taken by them.

It must be pointed out, however, that this showing with respect to the Redlands-Highlands district applies only to the transportation of citrus fruits to Los Angeles and the harbor district and the return haul of fertilizer, box shoo and packing house supplies. No showing has been made by this applicant which would warrant this Commission in granting applicant a certificate of public convenience and necessity authorizing the transportation of such commodities as roofing materials and wall board. The application in this respect must be denied.

After a careful review of the evidence submitted in this proceeding, and a detailed analysis of briefs filed by various counsels representing applicant and protestants, we are of the opinion and hereby find as a fact that public convenience and necessity require the establishment by applicant herein of an automotive truck line for the transportation of commodities over the routes as more specifically set forth in the declaration and order accompanying this opinion.

I submit herewith the following form of order:

#### ORDER.

Public hearings having been held in the above entitled proceeding, evidence having been submitted and the Commission being fully advised:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by A. J.

Happe of an automobile truck line as a common carrier of the following commodities: honey in cases, citrus fruits, cherries, deciduous fruits, fertilizer, shook, packing house supplies, empty containers, between the following points only: Oak Glen, Yucaipa and Beaumont to Redlands, San Bernardino, Riverside, Ontario, Pomona and Los Angeles; from the Redlands district, including East Highlands, Crafton and Byrn Mawr, to Los Angeles and Los Angeles Harbor (Wilmington and San Pedro); subject to the following conditions:

1. The certificate herein granted does not authorize the transportation between any points whatsoever of roofing materials or wall board, nor does it authorize the transportation of any commodity whatsoever to or from San Bernardino, with the exception of the transportation of deciduous fruits between the points hereinabove named, with return loads of shook, fertilizer or packing house supplies.

2. Applicant shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificate herein granted; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of July, 1923.

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DECISION No. 12423.

IN THE MATTER OF THE APPLICATION OF VENICE CONSUMERS WATER COMPANY FOR AUTHORITY TO PURCHASE, AND CITY WATER COMPANY OF OCEAN PARK FOR AUTHORITY TO SELL ALL OF THE PROPERTIES OF THE SAID CITY WATER COMPANY OF OCEAN PARK.

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Application No. 9273.

Decided July 31, 1923.

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BY THE COMMISSION.

ORDER.

City Water Company of Ocean Park, a corporation, having made application to this Commission for authority to transfer its entire

public utility property devoted to the service of water to consumers in and in the vicinity of the city of Venice, Los Angeles County, to Venice Consumers Water Company, a corporation, and upon completion of the transfer to be relieved of its public utility obligations, and Venice Consumers Water Company having joined in the application, and it appearing that this is not a matter in which a public hearing is necessary, and that the application should be granted;

*It is hereby ordered*, that City Water Company of Ocean Park, a corporation, be and the same is hereby authorized to transfer its entire public utility water system, more particularly described in Exhibit "E", attached to and made a part of the application herein, to Venice Consumers Water Company, upon the following conditions:

1. The authority herein granted applies to the lands, physical properties and rights more particularly described in Exhibit "E", attached to and made a part of the application herein.

2. The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

3. The authority herein granted shall apply only to such transfer as shall have been completed on or before December 31, 1923, and a certified copy of the final instrument of conveyance shall be filed with this Commission by City Water Company of Ocean Park within thirty (30) days from the date on which it is executed.

4. Within ten (10) days from the date on which City Water Company of Ocean Park actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

*It is hereby further ordered*, that upon the completion of the transfer of the properties herein authorized, and full compliance with the conditions contained in the order herein, City Water Company of Ocean Park be and the same is hereby relieved of its obligations as a public utility supplying water to consumers in and in the vicinity of the City of Venice, Los Angeles County.

Dated at San Francisco, California, this thirty-first day of July, 1923.

## DECISION No. 12430.

IN THE MATTER OF THE APPLICATION OF GOLDEN GATE FERRY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE ITS CAPITAL STOCK.

Application No. 6316.

Decided August 2, 1923.

BY THE COMMISSION.

## FIFTH SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 8511, dated January 3, 1921, authorized Golden Gate Ferry Company to issue and sell, for cash, at not less than par \$1,000,000 of its common capital stock. The order of the Commission permits the company to use not exceeding \$175,000 of the proceeds from the sale of its stock to pay reasonable organization and incorporation expenses, attorneys' fees, engineering and brokerage fees, but provides that the remaining \$825,000 be deposited in a bank or banks and expended only for such purposes as the Railroad Commission may hereafter authorize. Heretofore the Commission by various supplemental orders has authorized applicant to use \$650,000 of the \$825,000 of proceeds to finance the cost of building its two ferry boats.

In a supplemental petition filed in the above entitled matter on July 27, 1923, the company reports that it has sold all of the stock authorized by Decision No. 8511. It asks the Commission to make an order modifying the former decision, so as to permit it to use the \$825,000 of proceeds for the following properties:

Ferry boats.....	\$640,244	26
San Francisco and Sausalito slips.....	143,257	22
Office buildings.....	22,256	89
Approaches to slips.....	10,344	92
Oil storage tank.....	4,166	71
Weighing scales.....	3,980	00
Grading.....	750	00
Total .....	\$825,000	00

The Commission has given due consideration to applicant's request and believes that it should be granted as herein provided; therefore,

*It is hereby ordered*, that the order in Decision No. 8511, dated January 3, 1921, as amended, be and it is hereby modified so as to permit Golden Gate Ferry Company to use not exceeding \$825,000 of the proceeds received from the sale of the stock authorized by the order in said decision to pay for the properties referred to in this order.

*It is hereby further ordered*, that the time within which Golden Gate Ferry Company may issue, sell and deliver the stock authorized by



Decision No. 8511, dated January 3, 1921, be and it is hereby extended to and including August 31, 1923.

*It is hereby further ordered*, that the order in Decision No. 8511, dated January 3, 1921, as amended, shall remain in full force and effect, except as modified by this fifth supplemental order.

Dated at San Francisco, California, this second day of August, 1923.

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DECISION No. 12434.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, A CORPORATION, TO DISCONTINUE AND ABANDON ITS PASSENGER SERVICE BETWEEN LOS ANGELES AND ANAHEIM.

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Application No. 6880.

Decided August 2, 1923.

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*Elmer Westlake*, for Applicant.

*J. H. Strinc*, for Board of Trade of Anaheim, and residents of Anaheim, West Anaheim, Brookhurst, Buena Park, Norwalk, Downey and Cudahy.

BY THE COMMISSION.

OPINION.

Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of passenger train service between Los Angeles and Anaheim and intermediate points. The application alleges that the daily motor car service operated over this branch line is now and has for some months been unremunerative and that such service has been maintained and operated at a considerable loss; that there is no prospect of increasing the revenue from passenger operation on this branch line; that there are now other adequate transportation facilities for the patrons heretofore using the motor car service operated on the Anaheim branch and that the interests of the public will not be prejudiced by the proposed discontinuance of service.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

The passenger train service, herein proposed to be discontinued, is that rendered by a gasoline motor car between Los Angeles and Anaheim serving the intermediate communities at Vernondale, Florence, Cudahy, Vinvale, Downey, Studebaker, Norwalk, Carmenita, Buena Park, Almond, Brookhurst and West Anaheim. Two round trips daily cover the scheduled operation leaving Los Angeles at 10 a.m. and 5.20 p.m. and arriving Anaheim at 11.15 a.m. and 6.35 p.m. In the opposite direction leaving Anaheim at 6.45 a.m. and 12.15 p.m., arriving Los Angeles at 7.50 a.m. and 1.20 p.m.

Mr. A. F. Bowles, assistant superintendent of the Los Angeles Division of Southern Pacific Company, testified that the revenue derived

from the passengers carried by the service proposed to be abandoned resulted in earnings of 14.82 cents per car mile for the calendar year 1920 and of 13.24 cents per car mile during the first three months of 1921. The out of pocket train operating costs (allowing no track or roadway maintenance, station expense, superintendence or general expense, depreciation, taxes or interest on investment) amounted to 47.32 cents and 42.11 cents per car mile during the respective periods. This witness attributes the decreasing patronage to the activity of motor bus competition and to the increasing use of the privately-owned automobile. The majority of the patronage is that derived from commutation travel. The communities at Anaheim and Downey are served by regular auto stage lines with frequent schedules. Anaheim is also served by the rail line of the Atchison, Topeka and Santa Fe Railway Company, and the community at Florence is served by the Pacific Electric Railway Company.

Mr. F. S. McGinnis, general passenger agent of the Southern Pacific Company, testified that an average of 12 commuters used the motor car service daily between Los Angeles and Anaheim and intermediate points and that a 60-day check of local tickets sold from branch line points to points on the main line showed 155 tickets sold, of which number 37 were used for transportation to Los Angeles by the motor car operated on the branch and the remaining 118 used either private conveyance or other methods of transportation into Los Angeles, the purchase of tickets from branch line points being for the purpose of checking baggage to main line destination

A check of all tickets, except commutation, sold to or from points on the Anaheim branch for the calendar year 1920 (filed as an exhibit herein) shows a total of 8385 tickets, of which number 7187 were presented for passage on the branch and 1198 were not presented, passengers having gone from or to Los Angeles by other means of transportation.

Some protest was made by representatives of intermediate communities particularly as regards Downey and Norwalk. The protest is principally as to the possible curtailment of facilities for the transportation of express packages to and from Los Angeles and other points. The express service can be cared for by other transportation facilities now serving Downey, Norwalk and Anaheim and the evidence herein shows that the revenue derived from express is less than the amount required as salary for the messenger who also acts as train baggageman. Some complaint was made as to schedules not being dependable but a detailed check covering a month's operation and presented as an exhibit shows delayed arrival in 19 instances, 15 of which were 5 minutes or less, 1 each of 7 minutes, 10 minutes, 27 minutes and 35 minutes, and in the two latter cases steam locomotive operation was substituted

for the regular motor car. This is not an unusual or abnormal condition as regards branch line operation and does not indicate unusual or inefficient operation.

After careful consideration of all the evidence and exhibits in this proceeding we are of the opinion and hereby find as a fact that the continued operation of passenger train service by applicant between Los Angeles and Anaheim and intermediate points is not justified by the revenue resulting from such operation, the bare train operating costs being approximately three times the revenue and no allowance or consideration being given to other items of expense nor to taxes, depreciation or interest on the investment devoted to this service. Other methods of transportation have supplanted the service offered by applicant and are being patronized by the public to an extent that results in the continued operation of the motor car passenger service accumulating a constant and increasing deficit. The application will be granted.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

*It is hereby ordered*, that applicant, Southern Pacific Company, be and the same hereby is authorized to suspend and discontinue passenger motor car service on the Anaheim branch of its Los Angeles division between Los Angeles and Anaheim and intermediate points.

The Commission hereby reserves the right to make such other and further orders in this proceeding as to it may appear just and proper or as the future public convenience and necessity may, in the opinion of the Commission, demand.

Dated at San Francisco, California, this second day of August, 1923.

## DECISION No. 12450.

IN THE MATTER OF THE COMPLAINT BY THE COMMISSION, ON ITS OWN MOTION, AGAINST THE WEST SIDE NATURAL GAS COMPANY OF TAFT, CALIFORNIA, AS TO THE REASONABLENESS OF ITS RATES OR CHARGES.

Case No. 1828.

Decided August 2, 1923.

**GAS—SERVICE—EXCESS METER REGISTRATION.**—Refunds to consumers ordered for all excess meter registration above the true amount of gas delivered from January 1, 1922, to the date of removal of meter. Unclaimed refunds ordered held ready for payment for two years.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

The Commission, by its Decision No. 11248, dated November 18, 1922, ordered West Side Natural Gas Company to test and repair all of the meters upon its system in a manner complying with the requirements of the Commission for such work. This work is now being prosecuted diligently by respondent and a material number of meters, which have been in service measuring gas to consumers, have been found to be recording inaccurately and registering in excess of the true amount of gas delivered.

From the evidence before us it appears reasonable to believe that meters now found inaccurate have been in such condition for a prolonged period of time, inasmuch as very little attention has in the past been given to their proper maintenance. In view of this situation the Commission is of the opinion that refunds to consumers, in reparation for the over-registration of meters found to be inaccurate, should be made, covering a greater period of time than is prescribed by General Order No. 58 of the Railroad Commission.

This proceeding was instituted October 19, 1922, and we are of the opinion that refunds to consumers should be made for excess meter registration above the true amount of gas delivered to correct bills for service subsequent to January 1, 1922.

*It is hereby ordered*, that West Side Natural Gas Company refund to all present or former consumers, by personal delivery, or by mailing to the last known mail address, an amount equal to overcharges which may have been made to them and each of them for service rendered, as follows: (a) If the meter was last set prior to January 1, 1922, refund shall be made in an amount equal to the over-registration of the meter, at the percentage rate of error determined by the tests now being made under the direction of the Commission, such refund to cover the entire period from January 1, 1922, to the date of removal of said meter; (b) If the meter was tested, accurately adjusted and set subsequent to

January 1, 1922, and later became inaccurate and registered in excess of the true amount of gas delivered, refund shall be made in an amount equal to the over-registration of the meter at the percentage rate of error, as determined by the aforementioned tests, such refund to cover a period of six months prior to the date of removing such inaccurate meter or meters.

*It is hereby further ordered*, that if any former consumers to whom refunds are due under the provisions of this order can not now be located, the amounts of such refunds shall be kept on hand, ready for payment by West Side Natural Gas Company, for a period of two years from the date of this order.

*It is hereby further ordered*, that West Side Natural Gas Company submit to this Commission a written report showing the identification number of each meter and the percentage of error found; the location or locations where set; the name of the consumer or consumers supplied by said meter since January 1, 1922, or since the date when last accurately adjusted and set if subsequent to January 1, 1922; the volumes of gas measured since the above dates, together with corresponding bills rendered and refunds made in accordance with this order.

Dated at San Francisco, California, this second day of August, 1923.

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DECISION No. 12454.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME  
TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO  
ISSUE NOTE TO REFUND CERTAIN NOTE NOW OUTSTANDING.

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Application No. 9277.

Decided August 6, 1923.

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*Charles A. Rolfe*, for Applicant.

MARTIN, *Commissioner*.

**ORDER.**

Southwestern Home Telephone Company having applied to the Railroad Commission for permission to issue a two-year 7 per cent note in the principal amount of \$10,000 for the purpose of refunding a note of like amount which was issued pursuant to authority granted by the Commission in Decision No. 9528, dated September 19, 1921, and having requested permission to pledge, as security therefor, \$20,000 of its first mortgage 5 per cent bonds due 1937;

And, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that Southwestern Home Telephone Company be and it is hereby authorized to issue a two-year 7 per cent note in the principal amount of \$10,000 for the purpose of refunding the note of

like amount which was issued pursuant to Decision No. 9528, dated September 19, 1921, and referred to in this application.

*It is hereby further ordered*, that Southwestern Home Telephone Company may deposit as security for the note herein authorized the \$20,000 of first mortgage bonds which are now deposited as security for the note applicant intends to refund.

The authority herein granted is subject to further conditions as follows:

1. Applicant may, if it so desires, issue the note herein authorized for a period of less than two years, and renew such note from time to time, provided that the combined terms of the note herein authorized, and of those given in renewal thereof, do not exceed a period of two years after date of the first note issued under the authority herein granted.

2. As payments are made by applicant on the note or notes herein authorized to be issued, a proper proportion of the bonds pledged as collateral shall be returned to applicant's treasury and not thereafter disposed of except as authorized by the Commission.

3. Within thirty days after the issue of the note herein authorized and the deposit of the bonds, applicant shall file with the Railroad Commission a verified statement of such issue and deposit, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the date hereof.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of August, 1923.

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DECISION No. 12455.

ROSENBERG BROS. AND COMPANY, GROWERS RICE MILLING COMPANY, C. E. GROSJEAN RICE MILLING COMPANY, SACRAMENTO VALLEY RICE MILLING COMPANY, THE NATIONAL RICE MILLS, CALIFORNIA STATE RICE MILLING COMPANY,

*vs.*

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, SACRAMENTO NORTHERN RAILROAD.

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Case No. 1744.

Decided August 6, 1923.

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RATES—RAILROAD—PADDY RICE IN CARLOADS—PRIOR DECISION MODIFIED.—Held that the paddy rice rates collected by rail carriers between January 7, 1922, and July 1, 1922, were excessive and unreasonable, inasmuch as they exceeded 125

per cent of the grain rates. Consignees are entitled to and should receive reparation against shipments involved in this proceeding.

*E. W. Hollingsworth, R. T. Boyd and Bishop and Bahler*, for Complainants.  
*Elmer Westlake and H. W. Klein*, for Atchison, Topeka and Santa Fe Railway Company and for Southern Pacific Company.  
*James S. Moore*, for Western Pacific Railroad Company.  
*Charles R. Detrick and Heller, Ehrman, White and McAuliffe*, for Sacramento Northern Railroad Company.  
*Butler and Van Dyke*, for Central California Traction Company.  
*L. H. Rodebaugh*, for San Francisco-Sacramento Railroad Company.  
*Saunborn, Roehl and Smith*, for Sacramento Navigation Company and California Transportation Company, Interveners.

BY THE COMMISSION.

#### SUPPLEMENTAL OPINION OF MODIFICATION OF PRIOR ORDER.

In this proceeding, by Decision No. 10895, August 23, 1922, the Commission ordered the defendants to establish rates for the transportation of paddy rice, in carloads, not in excess of more than 125 per cent of the rates contemporaneously applied to whole grain—viz, wheat, oats, barley, etc., from and to the same points of origin and destination. At the same time, the defendants were instructed to pay reparation of the difference between the rates collected and the rates ordered into effect.

By Decision No. 11161, October 24, 1922, the proceeding was reopened for presentation of proof so that the Commission might determine to whom the reparation, if any, should be awarded, and in what amounts.

By Decision No. 11823, March 21, 1923, the proceeding was ordered dismissed upon our conclusion that the complainants had failed to prove that the freight charges on the rice shipments here involved had been paid and had been borne by them and that they had been damaged as a consequence thereof.

On March 29, 1923, complainants filed a petition for rehearing and asked the privilege of oral argument before the Commission en banc upon a number of allegations. The petition for oral argument was granted, and arguments heard on June 20, 1923. It will not be necessary to recite the allegations in detail, the contention being, however, that the evidence showed that the transportation charges on the shipments at issue had been paid by the complainants and that the Commission erred in failing to find that the complainants were entitled to the reparation found to be due.

Counsel for the complainants in argument laid great stress upon the language of the decision of the Supreme Court of the United States in the case of *Southern Pacific Company vs. Darnell-Taenzler Lumber Company*, 245 U. S. 531, in which the court said, in part:

The only question before us is that at which we hinted; whether the fact that the plaintiffs were able to pass on the damage that they sustained in the first instance by paying the unreasonable charge, and to collect that amount from the purchasers, prevents their recovering the overpayment from the carriers. The answer is not difficult. The general tendency of the law, in regard to damages at least, is not to go beyond the first step. As it does not attribute remote consequences to the defendant, so it holds him liable if proximately the plaintiff has suffered a loss. The

plaintiffs suffered losses to the amount of the verdict when they paid. Their claim accrued at once in the theory of the law, and it does not inquire into later events. Perhaps strictly the securing of such an indemnity as the present might be regarded as not differing in principle from the recovery of insurance, as *res inter alios*, with which the defendants were not concerned. If it be said that the whole transaction is one from a business point of view, it is enough to reply that the unity in this case is not sufficient to entitle the purchaser to recover, any more than the ultimate consumer, who in turn paid an increased price. He has no privity with the carrier. The carrier ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the carrier took the sum. *New York, New Haven & Hartford R. R. Co. vs. Ballou & Wright*, 242 Fed. 862. Behind the technical mode of statement is the consideration, well emphasized by the Interstate Commerce Commission, of the endlessness and futility of the effort to follow every transaction to its ultimate result. Probably in the end the public pays the damages in most cases of compensated torts.

Similar proceedings referred to were:

*Atchison, Topeka and Santa Fe Ry. Co. vs. Spiller*, 246 Fed. 1.

*Bonfile vs. Pub. Utl. Com.*, Col. 189 Pac. 775.

*N. Y. & P. Co. vs. N. Y. C. Ry. Co.*, 110 Atl. 286.

*Ballou & Wright vs. N. Y., N. H. & H.*, 34 I. C. C. 120.

The attorney for the defendants urged that because the complainants in this proceeding admitted in their testimony that the purchase price of the rice was in most instances based upon a basic price at milling points, less the freight charges, the consignees, in this case the millers, were not entitled to reparation for, while they paid the freight charges, the amount was actually provided and borne by the rice growers, by reason of the fact that these charges were deducted from the amount paid for the rice.

This proceeding involves peculiar situations not usually present in reparation cases, for in this instance the Commission, in January, 1921, Cases 1432 and 1437, 19 C. R. C. 248, ordered the carriers to publish paddy rice rates based on 125 per cent of the rates established August 26, 1920, applying to whole grain. This order was carried into effect and the rice rates remained at 125 per cent of the whole grain rates until January 7, 1922, when grain rates were reduced 10 per cent without a corresponding reduction in the paddy rice rates. This adjustment made the paddy rice rates approximately 140 per cent of the grain rates and disturbed the adjustment ordered into effect by the Commission in January, 1921. On July 1, 1922, the paddy rice rates were reduced about 10 per cent, but since at the same time there were no further reductions in the rates applying to whole grain, the paddy rice rates then again became practically 125 per cent of the whole grain rates, which adjustment should have been made in January, 1922, when the grain rates were reduced. Therefore, the paddy rice rates were excessive and unreasonable during the period of time January 7, 1922, to July 1, 1922, inasmuch as they exceeded 125 per cent of the grain rates.



Upon further consideration of all the testimony and of the oral argument, we are of the opinion that the Darnell-Taenzer decision, *supra*, is controlling in a situation of this kind and that the complainants are entitled to and should receive reparation against the shipments involved in this proceeding.

We find that the complainants received the shipments of paddy rice and paid the charges thereon; that they had been damaged in the amount of the difference between the charges paid and those that would have accrued upon the basis of the rates found to be just and reasonable. The complainants should submit statements to the defendant carriers of the shipments involved in this proceeding for check and consideration. Should it not be possible to reach an agreement as to the particular amount of reparation due, the matter may be brought before this Commission for further consideration and the entry of a supplemental order, should the same prove necessary.

Dated at San Francisco, California, this sixth day of August, 1923.

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DECISION No. 12460.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY, A CORPORATION, FOR AUTHORITY UNDER THE PROVISIONS OF SECTION 43 OF THE PUBLIC UTILITIES ACT, TO CONSTRUCT, MAINTAIN AND OPERATE CERTAIN RAILROAD TRACKS ACROSS PUBLIC STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF LOS ANGELES.

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Application No. 8944.

Decided August 6, 1923.

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*Fred E. Pettit, Jr.*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by the Los Angeles and Salt Lake Railroad Company, a corporation, for authority to construct six spur tracks across certain public streets and highways in the city of Los Angeles.

A public hearing was held on this application before Examiner Williams in Los Angeles on May 25, 1923.

This application specifically asks for authority to maintain spur tracks at the following locations:

(1) A spur track at grade across Avenue Thirty-three at Grace street to serve the Etna Marble Company.

(2) A spur track at grade across Ferry street, Ocean avenue and Mormon street at the Los Angeles harbor to serve the Hammond Lumber Company.

(3) Two spur tracks at grade across Hollenbeck avenue to serve vegetable sheds of the railroad. Hollenbeck avenue at this point is not physically open to public travel.

(4) A spur track at grade across Hollenbeck avenue to serve the California Glazed Cement Pipe Company. Hollenbeck avenue at this point also is not physically open to public travel.

(5) A spur track at grade across Avenue Twenty-one at Humboldt street to serve the W. M. Gottschalk Furniture Factory.

The application recites that all of the crossings covered in this application were actually constructed without the proper authority from the Commission. The record shows that the spur across Avenue Thirty-three to serve the Etna Marble Company was completed in February, 1923; the spur across Ferry street, Ocean avenue and Mormon street was completed December 30, 1922; the two spurs across Hollenbeck avenue to serve the vegetable sheds of the railroad were completed November 1, 1921; the spur across Hollenbeck avenue to serve the California Glazed Cement Pipe Company was completed August 7, 1920; and the spur across Avenue Twenty-one to serve the Furniture Company of W. M. Gottschalk was completed November 21, 1921. Applicant frankly admitted that these tracks had been constructed without proper authority and acknowledged all blame in the matter and stated that failure to obtain the Commission's authorization for the various crossings was due entirely to inadvertence, the applicant further stating that when it was discovered that this work had been done without proper authority the responsible officials of the company hastened not only to make present application to secure the necessary permission of the Commission to maintain these various crossings, but also took steps within its own organization to assure itself that there would be no further violations of section 43 of the Public Utilities Act on the part of the applicant.

The Commission's engineer, after investigation, recommended that each of the crossings covered by the application be authorized, there being no physical conditions encountered which should make it in the public interest to withhold the granting of this application.

The Commission is convinced from the evidence in this proceeding that the violations of the provisions of section 43 of the Public Utilities Act in this instance were, in fact, made inadvertently, and, although this does not excuse the applicant, consideration should be given to the fact that this is the first offense of its kind on the part of this carrier that has been brought to the attention of the Commission, and in view of all the circumstances in the matter, no attempt will be made to penalize the applicant in this instance and the application will be granted.

#### ORDER.

Los Angeles and Salt Lake Railroad Company, a corporation having made application for permission to construct, maintain and operate certain railroad tracks at grade across certain public streets within the

city of Los Angeles, county of Los Angeles, State of California, as hereinafter indicated, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that permission be and it is hereby granted Los Angeles and Salt Lake Railroad Company to construct spur tracks at grade in the following described locations:

*One spur track across Avenue Thirty-three.*

Beginning at a point in the center line of the main track of the Pasadena branch of the Los Angeles and Salt Lake Railroad Company at Engineer Station 146 plus 77.5, said point of beginning being Engineer Station 0 plus 0 of the proposed spur track; thence southerly on a standard No. 9 turnout to the left to the easterly line of Grace street at Engineer Station 0 plus 29.17; thence continuing southerly on said standard No. 9 turnout to the left to the point of frog at Engineer Station 0 plus 70.6; thence on a tangent to said standard No. 9 turnout to Engineer Station 0 plus 98.93, said point being the point of beginning of a curve concave southeasterly and having a radius of 573.69 feet; thence southerly along said curve to Engineer Station 1 plus 68.48, said point being in the center line of Avenue Thirty-three distant easterly 35.65 feet from the intersection of said center line of Avenue Thirty-three with the center line of Artesian street; thence continuing southerly on said curve to Engineer Station 1 plus 93.5, said point being in the southerly line of Avenue Thirty-three and distant easterly five feet from the easterly line of Artesian street; thence continuing southerly on said curve to Engineer Station 1 plus 96.6 to the end of curve; thence southerly parallel with the easterly line of Artesian street to Engineer Station 2 plus 93.4, the end of said proposed track.

All of the above as shown by the map marked Exhibit B attached to the application.

*One spur track across Ferry street, Ocean avenue and Mormon street.*

Beginning at a point in the center line of the main track of the San Pedro branch of the Los Angeles and Salt Lake Railroad at Engineer Station 1363 plus 83.0 equals 0 plus 0.0 of proposed spur track, said point being distant northwesterly 30.0 feet measured at right angles from the southeast line of Lot 6, Tract 751, as per map recorded in Book 16, pages 26-27 of Maps, said county, and distant northeasterly 104.2 feet, measured at right angles, from the southwest line of said Lot 4, thence westerly on a standard No. 9 turnout to the right 70.6 feet to point of frog at Engineer's Station 0 plus 70.6; thence on a tangent to said turnout S. 70° 27' 30" W. 9.4 feet to Engineer's Station 0 plus 80.0; thence westerly on a curve to the right having a radius of 716.78 feet, a distance of 24.70 feet to Engineer's Station 1 plus 04.70 being a point in the easterly line of Mormon street; thence continuing westerly on said curve a distance of 30.38 feet to Engineer's Station 1 plus 35.08 being a point in the center line of Mormon street distant southerly 61.10 feet from the intersection of said center line with the center line of Ocean avenue; the tangent to said curve at said station 1 plus 35.08 intersection said center line of Mormon street at an angle of 79° 13' 36"; thence continuing westerly on said curve a distance of 30.67 feet to Engineer's Station 1 plus 65.75, a point in the westerly line of said street; thence continuing westerly on said curve across private property a distance of 100.12 feet to Engineer's Station 2 plus 65.87, a point in the southerly line of Ocean avenue; thence continuing westerly on said curve a distance of 9.13 feet to the end of said curve at Engineer's Station 2 plus 75.00; thence westerly along a tangent to said curve a distance of 12.20 feet to Engineer's Station 2 plus 87.20; thence westerly along a curve to the left having a radius of 716.78 feet a distance of 49.85 feet to Engineer's Station 3 plus 37.05, being a point in the center line of Ocean avenue distant westerly 192.37 feet from the intersection of center line of Ocean avenue with the center line of Mormon street; the tangent to said curve at said station 3 plus 37.05 intersection said center line of Ocean avenue at an angle of 17° 58' 43"; thence continuing westerly along said curve a distance of 104.96 feet to Engineer Station 4 plus 42.01 a point in the northerly line of said Ocean avenue; thence con-

tinuing westerly on said curve over private lands a distance of 119.77 feet to Engineer's Station 5 plus 61.78 a point distant northerly 10.0 feet measured at right angles from the northerly line of Ocean avenue; thence westerly across private property, along a line parallel with said northerly line of Ocean avenue a distance of 1052.72 feet to Engineer's Station 16 plus 14.50 a point in the easterly line of Ferry street; thence continuing westerly on prolongation of said parallel line a distance of 30.0 feet to Engineer's Station 16 plus 44.50 a point in the center line of Ferry street distant northerly 35.0 feet from the intersection of said center line with the center line of Ocean avenue, thence continuing westerly on said tangent a distance of 11.8 feet to Engineer Station 16 plus 56.3, the point of beginning of a curve to the right and having a radius of 637.27 feet; thence along said curve a distance of 18.2 feet to Engineer Station 16 plus 74.5, a point in the westerly line of Ferry street; thence continuing westerly on said curve over private property a distance of 131.8 feet to Engineer Station 18 plus 06.30; thence westerly along a tangent to said curve a distance of 10.3 feet to the point of frog of a standard No. 9 turnout at Engineer Station 18 plus 16.6; thence westerly along said turnout a distance of 70.6 feet to point of switch at Engineer Station 18 plus 87.2 being a point in an existing track.

All of the above as shown by the map marked Exhibit E attached to the application.

*Two spur tracks across Hollenbeck avenue.*

First: Beginning at Station 17 plus 26.4 of Track No. 251, being an existing track in Lot 3 of Tract No. 2495, as per map recorded in Book 36, pages 20 and 21. Records of Los Angeles County, said station being also equal to Station 0 plus 0.0 of this survey; thence northerly along a standard No. 9 turnout to the right 70.6 feet to Station 0 plus 70.6 to the point of beginning of a curve concave to the southeast having a radius of 573.69 feet; thence northeasterly along said curve 189.3 feet to Station 2 plus 59.9 being the point of beginning of a curve concave to the northwest and having a radius of 573.69 feet; thence northerly along said curve, 250.6 feet to Station 5 plus 10.5 being the end of curve; thence along a line tangent to said curve and parallel with the easterly line of the Los Angeles River N. 10° 35' 30" W. 49.5 feet to Station 5 plus 60.0 being a point in the southerly line of Hollenbeck avenue distant thereon 196.42 feet from the easterly line of the Los Angeles River; thence continuing N. 10° 35' 30" W. 104.8 feet to Station 6 plus 64.8 being a point in the northerly line of Hollenbeck avenue distant 196.42 feet measured thereon from the easterly line of the Los Angeles River; thence continuing N. 10° 35' 30" W. 1000.2 feet to Station 16 plus 65.0, the end of Survey No. 1.

Second: Beginning at Station 4 plus 74.9 of Survey No. 1 being Station 0 plus 0.0 of Survey No. 2; thence northerly along a standard No. 9 turnout to the right 70.6 feet to Station 0 plus 70.6; thence N. 4° 13' 43" W. 10.5 feet to Station 0 plus 81.1, being a point in the south line of Hollenbeck avenue distant 203.91 feet measured thereon from the easterly line of the Los Angeles River; thence continuing N. 4° 13' 43" W. 28.6 feet to Station 1 plus 09.7, being the point of beginning of a curve concave to the west and having a radius of 637.27 feet; thence northerly along said curve 70.7 feet to Station 1 plus 80.4 being the end of said curve and also being a point in the northerly line of Hollenbeck avenue distant 212.93 feet measured thereon from the easterly line of the Los Angeles River; thence N. 10° 35' 30" W. 1009.6 feet to Station 11 plus 90.0 being the end of Survey No. 2.

All of the above as shown by the map marked Exhibit H attached to the application.

*One spur track across Hollenbeck avenue.*

Beginning at a point in the southerly line of Hollenbeck avenue distant thereon 467.24 feet easterly from the easterly line of the Los Angeles River, as defined by Ordinance No. 287 (old series); thence by curve concave to the west having a radius of 573.686 feet to a point in the northerly line of Hollenbeck avenue distant thereon 508.09 feet easterly from said easterly line of said Los Angeles River.

All of the above as shown by the map marked Exhibit N attached to the application.

*One spur track across Avenue Twenty-one.*

Beginning at a point in the center line of the main track of the Pasadena branch of the Los Angeles and Salt Lake Railroad 193.14 feet southwesterly thereon from the center line of Avenue Twenty-one thence northeasterly along a standard No. 9 turnout to the left 70.6 feet to a point; thence north  $45^{\circ} 35' 35''$  east 62.4 feet to a point of curve; thence northeasterly along a curve concave to the northwest having a radius of 287.94 feet a distance of 62.5 feet to a point of reverse curve, crossing the southwesterly line of Avenue Twenty-one at a point 14.7 feet southeasterly thereon from the northwesterly line of Humboldt street; thence northeasterly along a reversed curve, having a radius of 287.94 feet, a distance of 38 feet to a point in the northeasterly line of Avenue Twenty-one 3.45 feet northwesterly thereon from the northwesterly line of Humboldt street.

All of the above as shown by the map marked Exhibit K attached to the application.

Said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings of Avenue Thirty-three, Ferry street, Mormon street and Avenue Twenty-one shall be constructed of a width and type of construction to conform to those portions of said streets now graded with top of rails flush with the pavement and with grades of approach not exceeding three (3) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic. Said crossing of Hollenbeck avenue shall be so constructed that grades of approach not exceeding six (6) per cent will be feasible in the event that the construction of a roadway along said Hollenbeck avenue shall hereafter be authorized and said crossing of Ocean avenue shall be so constructed that grades of approach not exceeding two (2) per cent will be feasible in the event of the construction of a roadway along said Ocean avenue being hereafter authorized, and so that said crossings may be made safe for the passage thereover of vehicles and other road traffic.

(3) This order is made upon the express condition that Hollenbeck avenue and Ocean avenue are not now actually constructed and open to travel at the respective points of crossing and said order shall not be deemed an authorization for the construction or opening of said streets to public use across said railroad tracks.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this sixth day of August, 1923.

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DECISION No. 12461.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CROSS AT GRADE TERRACE DRIVE, WEST CHANNEL ROAD AND CENTER STREET, PUBLIC HIGHWAYS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

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Application No. 9074.

Decided August 6, 1923.

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*C. W. Cornell*, for Applicant.

*Roy W. Dowds*, for County of Los Angeles.

*S. V. Cortelyou*, for People of the State of California.

*E. E. East*, for Automobile Club of Southern California.

*A. A. Pettinger*, for Santa Monica Canyon Association.

BY THE COMMISSION.

OPINION.

This is an application by Pacific Electric Railway Company for permission to relocate a branch line of its railroad extending northwesterly from the city of Santa Monica along the Pacific Ocean so as to cross Terrace drive, West Channel road and Center street at grade instead of above the grade of these streets as heretofore.

A public hearing was held on this application before Examiner Williams in Santa Monica July 10, 1923.

It appears that the line of railroad concerned in this proceeding, known as the Santa Monica Air Line, is owned by Southern Pacific Railroad Company and is operated by Pacific Electric Railway Company under lease. This line formerly extended adjacent to the beach of the Pacific Ocean to a point approximately one and one-fourth miles northwesterly from the city limits of Santa Monica. At a point about one-half mile from the end of this track, another track diverted onto a wharf extending into the Pacific Ocean. Under authority granted in the Commission's Decision No. 7250, dated March 12, 1920, the wharf and all the track northwesterly thereof was abandoned, leaving the terminus of the line about three-quarters of a mile northwest of the westerly city limits of Santa Monica.

Pursuant to negotiations between the Department of Public Works of the State of California and Pacific Electric Railway Company which culminated in a decree by the superior court of the county of Los Angeles, dated April 3, 1923, whereby the railroad right of way was condemned for state highway purposes, the state was awarded a seventy-foot right of way along the route formerly occupied by the railroad. This decree provided that the state should pay the entire cost of removing the railroad from its present location and reconstructing it in a new location adjacent to, although partially encroaching upon the land condemned. The record shows that the state has deposited fifteen thousand dollars as the estimated cost of doing this work.

In the new location of the railroad as contemplated by the plan estimated to cost fifteen thousand dollars, it is proposed to construct the new line of railroad across three streets at grade, namely, Terrace drive, West Channel road and Center street. These streets which have been in use over fifteen years, were formerly carried underneath the railroad through timber trestles which in themselves provided inadequate clearances. It appears that after the decree of the superior court, these structures and approximately one-half mile of track were actually removed and service thereover discontinued.

The applicant now comes before the Commission and asks for permission to install three grade crossings incident to the construction of an electric railroad in a new location, and the issue before the Commission is to determine whether public convenience and necessity justifies the hazard incident to their construction at grade. All of the three streets to be crossed are located in the Santa Monica Canyon which at present practically marks the northwesterly limits of residential and beach developments. The proposed crossings are in the unincorporated portion of the county of Los Angeles. The territory beyond the mouth of the Santa Monica Canyon along the beach is practically uninhabited. The railroad has heretofore operated fourteen cars daily each way between the hours of 7.45 a.m. and 6.00 p.m. This service has been rendered by a single one-man car. With the construction of the state highway along the beach, traffic over the three roads up the Santa Monica Canyon has become quite substantial and the hazard incident to this traffic crossing a railroad at grade has correspondingly increased.

It therefore appears to be a serious retrograde step to replace separated grade crossings with grade crossings concurrently with a large increase in vehicular traffic over the crossings. Although certain interested property owners have indicated that they prefer a grade crossing over an overhead crossing by the railroad, this preference appears to be very largely due to the belief that an overhead structure would be unsightly. If the applicant in this proceeding is justified in extending its line beyond Center street, the most southeasterly of the

crossings concerned, it appears that it is entirely feasible although quite expensive to construct its railroad across these streets overgrade on a structure which could be of such a design as not to seriously disfigure the mouth of the canyon and which would be of such a type of construction as to give good visibility from the roads crossed to the state highway. On the other hand, no adequate showing of public necessity and convenience requiring the extension of the line northwesterly from Center street has been made and the hazard incident to constructing the railroad at grade over streets carrying a very substantial traffic has not been justified. This application, therefore, should be denied.

#### ORDER.

Pacific Electric Railway Company having made application in the above entitled proceeding for permission to construct its track at grade across Terrace drive, West Channel road and Center street in the county of Los Angeles, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

*It is hereby ordered*, that this application be and it is hereby denied.

Dated at San Francisco, California, this sixth day of August, 1923.

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#### DECISION No. 12462.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUE OF BONDS.

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Application No. 7646.

Decided August 7, 1923.

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*R. W. Hawley*, for Applicant.

MARTIN, *Commissioner*.

#### SIXTH SUPPLEMENTAL ORDER.

El Dorado Water Corporation in a supplemental petition filed in the above entitled matter on July 25, 1923, asks permission to issue and sell at 89 per cent of face value \$20,000 of first mortgage 6½ per cent bonds due May 1, 1947, in addition to the \$230,000 of bonds heretofore authorized in this proceeding.

The Commission by Decision No. 10460, dated May 16, 1922, and by Decision No. 11983, dated April 27, 1923, authorized applicant to execute a mortgage and to issue \$230,000 of its Series "A" first mortgage bonds for the purpose of refunding indebtedness and of paying in part the cost of building its Webber Creek dam, reservoir, ditches, flumes and pipe lines appurtenant thereto, and to pay in part the cost of acquiring the property of Diamond Ridge Water Company.



The company now reports that it has issued and sold \$155,400 of the bonds authorized by Decision No. 10460 and Decision No. 11983, and in addition, it has issued and pledged as security for short term notes \$54,000 of bonds. The pledging of the bonds was authorized by the Commission in various supplemental orders. Because some of the bonds have been pledged as collateral, applicant reports that the \$230,000 of bonds heretofore authorized by the Commission will be inadequate to complete the cost of the construction work referred to herein. For this reason, it makes the present petition to issue an additional \$20,000 of bonds.

The Commission having given consideration to applicant's request to issue bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

*It is hereby ordered*, that El Dorado Water Corporation be and it is hereby authorized to issue and sell at not less than 89 per cent of face value plus accrued interest \$20,000 of its Series "A" first mortgage 6½ per cent bonds for the purpose of paying in part the cost of constructing the Webber Creek dam, reservoir, ditches, flumes, pipe lines and appurtenances thereto.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and will expire on December 31, 1923.

*It is hereby further ordered*, that the time within which El Dorado Water Company may issue, sell and deliver the bonds heretofore authorized by Decision No. 10460, dated May 16, 1922, as amended, and by Decision No. 11983, dated April 27, 1923, as amended, be and it is hereby extended to December 31, 1923.

*It is hereby further ordered*, that the orders in Decision No. 10460, dated May 16, 1922, as amended, and in Decision No. 11983, dated April 27, 1923, as amended, shall remain in full force and effect except as modified by this sixth supplemental order.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of August, 1923.

## DECISION No. 12463.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON WHARF NUMBER THREE AT REDONDO BEACH.

Application No. 9188.

Decided August 7, 1923.

*Frank Karr*, for Applicant.

*F. L. Perry*, City Attorney, for City of Redondo Beach.

*Carl Bush*, for Hollywood Chamber of Commerce, Protestant.

*G. C. DeGarmo*, for C. Ganahl Lumber Company and Redondo Planing Mill Company, Protestants.

*Dana R. Weller*, for Patton-Davies Lumber Company, Protestant.

*C. A. DeCoo*, for DeCoo-Brainerd Lumber Company, Protestant.

*H. Ruddiford*, for Lumbermen's Exchange, Protestant.

*F. P. Greyson*, for Associated Jobbers of Los Angeles.

*W. Wellington Farrow*, for E. B. Harris Lumber Company and Loundsbery and Harris Lumber Company, Protestants.

*E. G. Betz*, for Montgomery Lumber Company, Protestant.

*W. C. Schull*, for J. and W. C. Schull, Protestants.

*Fred Fancher*, for Redondo Chamber of Commerce.

*E. D. Tennant*, for Los Angeles District Lumbermen's Club, Protestant.

*M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

By THE COMMISSION.

## OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment and removal of its wharf No. 3 at Redondo Beach, California.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

The wharf herein proposed to be abandoned was constructed by the Los Angeles and Redondo Railway Company under authority conveyed by Ordinance No. 140 of the board of trustees of the city of Redondo Beach adopted and approved on August 19, 1903, and authorizing the construction and maintenance together with the right to receive and take tolls for the use of the wharf for a period of twenty years. Applicant herein duly acquired the rights of the original grantee by consolidation of its property with that of the Los Angeles and Redondo Railway Company, such consolidation being effective on September 1, 1911. Under the terms of the franchise the rights conferred terminate on August 19, 1923.

Applicant herein filed on May 28, 1923, an application with the board of trustees of the city of Redondo Beach for a renewal of the wharf franchise for a period of twenty years and said board on July 2, 1923, denied the application and also refused to extend the time covered by its Ordinance No. 140 or to permit applicant to maintain the wharf beyond the term of the franchise granted by said Ordinance No. 140.

The wharf has been used for the transfer of lumber from vessels to cars of applicant and to those of The Atchison, Topeka and Santa Fe Railway Company for movement to Redondo consignees and to other southern California points, principally west and southwest of the city of Los Angeles. Due to a considerable congestion of incoming shipments at San Pedro harbor points, and the existence of a lower freight rate from the port of Redondo to certain points in southern California west and southwest of the city of Los Angeles than is applicable from San Pedro harbor points, Redondo has been particularly favored with a large volume of lumber transfer from vessels to cars of applicant and those of The Atchison, Topeka and Santa Fe Railway Company, all of which has moved over the wharf for which abandonment is sought due to the early expiration of the wharf franchise and the inability of applicant to secure either a renewal of the wharf franchise or a reasonable extension of time for its continued maintenance and use.

The attitude of the board of trustees of the city of Redondo Beach, as expressed by the chairman of the board, a witness in this proceeding, is that the interests of the city will best be served by the elimination of the wharf and the discontinuance of the lumber business handled thereover and the ultimate development of the Redondo waterfront primarily for resort purposes rather than for commercial uses. Complaint is made that access to the portion of the waterfront devoted to resort and pleasure purposes is interfered with by the practice of applicant in allowing cars loaded with lumber to stand for long periods on tracks which must be crossed to obtain access from the business and residential sections of the city of Redondo Beach to the pleasure pier and other waterfront attractions, also that the switching of such cars along the waterfront has been objectionable and is not considered conducive to the character of development desired by the board of trustees.

The granting of the application is opposed by many representatives of the wholesale and retail lumber interests that have heretofore received shipments through the port of Redondo and have depended on the facilities furnished by the wharf for the handling of their shipments to retail yards and other destinations in southern California. The objection of these protestants is particularly against the interference with their business conditions by a suspension of service over Wharf No. 3 coincident with the date of the expiration of the present franchise for the reason that it appears that the port facilities at San Pedro harbor are at the present time badly overtaxed by the volume of traffic moving through such port, that berthing space for the discharge of lumber cargoes is difficult to secure often resulting in the payment of demurrage; that the difference in freight rates on lumber between those applicable to the port of Redondo and those from San Pedro harbor

points creates an unexpected and disturbing situation in the price of lumber at certain retail yards in southern California and gives a considerable advantage to yards heretofore receiving lumber through the port of San Pedro by increasing the cost of transportation to yards heretofore served through the port of Redondo and also increasing the transit time of freight shipments through the use of the San Pedro harbor facilities. These protestants are of the opinion that the present wharf at Redondo should be permitted to remain in operation for a sufficient time to permit the lumber industry properly to adjust itself to the new conditions which would be created by its abandonment and suggest that a two-year period is a necessary and reasonable time for readjustment to meet the anticipated change in conditions.

The volume of lumber passing over the Redondo wharf has been considerable. During the year ending June 30, 1923, 3194 carloads were handled by the Pacific Electric Railway Company and 429 by The Atchison, Topeka and Santa Fe Railway Company, a total of 3623 cars, all destined to points west and southwest of Los Angeles. The entire movement of lumber over the wharf is reflected by the following figures covering the respective years shown:

Year	Lumber in feet, board measure
1918 -----	19,992,121
1919 -----	45,026,077
1920 -----	62,029,707
1921 -----	68,760,122
1922 -----	100,908,157
1923 (first six months) -----	63,586,539

The board of trustees of the city of Redondo Beach has made an offer for a temporary renewal of the franchise for a period of two years provided that the applicant complies with the following conditions:

1. Immediately remove from the El Paseo of the city of Redondo Beach and from the land on the west side of Hermosa avenue, all switching tracks and all other tracks and use the existing tracks of The Atchison, Topeka and Santa Fe Railway Company.

2. That any and all switching or removing or operation of freight or cars or locomotives over the El Paseo or ocean front of said city, be confined as much as possible to that period of each day between the hours of midnight and 9 a.m., and that no stops be permitted between wharf No. 3 and Diamond street; and no switching of any kind be permitted within such territory.

3. That during all of such extended period the said wharf shall be maintained in good repair and operated solely as the property of Pacific Electric Railway Company and that at the expiration of said extended period, said Pacific Electric Railway Company shall dismantle

and remove said wharf at its own expense, and the said removal be fully completed within sixty (60) days thereafter.

The conditions under which an extension of the wharf franchise would be granted for a two-year period do not appear acceptable to the applicant, principally on the basis of the expense required to make the physical changes in tracks and facilities which would be necessary to meet the obligations imposed as conditions for the granting of an extension of the franchise for the two-year period. Applicant has filed an estimate of the cost of the track changes, etc., as follows:

1. Cost to remove scale, scale track and wharf track (net)-----	\$2,100 00
2. Cost to remove Pacific Electric track on El Paseo (net)-----	1,540 00
3. Cost to electrify Santa Fe track on El Paseo-----	1,400 00
4. Cost to provide new interchange with Santa Fe, relocate scale and provide new scale track-----	28,770 00
Total estimated cost-----	\$33,810 00

In order to eliminate the switching on the tracks on El Paseo it is necessary to move the present track scales and the trackage serving same, and this track has also served as the interchange track with The Atchison, Topeka and Santa Fe Railway Company and a new interchange track must be provided if the present track is to be abandoned. Facilities must also be provided for the weighing of carload shipments and the removal of the track scales must be followed by their relocation at another point. The use by the applicant of the track of The Atchison, Topeka and Santa Fe Railway as suggested by the board of trustees of the city of Redondo Beach will necessitate an expenditure for the bonding of such track and the installation of an overhead trolley for the electrical operation, and an operating agreement for the joint use of the track will also be necessary. Objection is also made to the requirement that the wharf must be maintained in good condition during the period of the extension of the franchise, and while the applicant is willing to assume the expense of ordinary repairs it is unwilling to obligate itself for the reconstruction of the wharf should it be destroyed by storm for the short period covered by the extension of the franchise. The restriction desired by the city of Redondo against the moving of freight cars on El Paseo at any hours excepting between midnight and 9 a.m. does not appear one that can be observed by the applicant if the volume of traffic heretofore cared for by the use of the wharf facilities is to continue. Vessels, when assigned berths at the wharf, discharge their cargoes as promptly as possible and frequently work crews overtime to secure expeditious discharge of their loads, such practice requiring a supply of empty cars to be available for the receipt of lumber as it is unloaded from the vessel. It is in evidence that the hours of switching as desired by the board of trustees of the city of Redondo Beach were based on the requirements of the lumber

yards and planing mill operated in Redondo Beach, and that no consideration was given to the requirements of other lumber companies located at other points than Redondo, but who have been served by the Pacific Electric and Atchison, Topeka and Santa Fe Railway in the movement of lumber handled over Redondo wharf.

We are of the opinion that the service heretofore rendered to the public by the operation of the wharf herein sought to be abandoned is one that should be continued, at least for such reasonable period as may be necessary to enable industries that have heretofore depended on the facilities afforded by the wharf in the receipt of their lumber shipments to make new arrangements. It appears, however, that the attitude of the board of trustees of the city of Redondo Beach is unfavorable to the granting of an extension of time as regards the continuance of the wharf franchise unless conditions are complied with by applicant which require the expenditure of an amount which is not justified by the short-term extension proposed and certain other conditions which appear impracticable and not within the ability of applicant to perform if it is to give satisfactory and efficient service to all its patrons by the use of the wharf and other adjacent facilities. It is clear that this Commission has no authority to compel the continued maintenance and operation of this wharf after the expiration of the existing franchise; that authority therefor must be obtained from the board of trustees of the city of Redondo Beach; that a renewal of the franchise for a twenty-year period has been refused after proper application and action thereon; that a renewal of the franchise for a two-year period has been informally considered by the board of trustees but upon conditions to be complied with by applicant that require a considerable expense and are not reasonably possible as regards their fulfilment.

In view of all the phases of the matter herein considered, we are of the opinion that the application should be granted, provided, however, that if applicant is able to secure an extension of its present franchise from the board of trustees of the city of Redondo Beach without the unusual and restrictive conditions as heretofore proposed the order herein shall not be effective.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised;

*It is hereby ordered*, that applicant, Pacific Electric Railway Company, be and the same hereby is authorized to discontinue the maintenance and operation of its wharf No. 3 at Redondo Beach, such maintenance and operation having been heretofore conducted under the

authority of a franchise granted by Ordinance No. 140 of the board of trustees of the city of Redondo Beach on August 19, 1903, to Los Angeles and Redondo Railway Company, predecessor of applicant herein, and said franchise expiring by its terms on August 19, 1923; provided, however, that this order shall be without prejudice to the filing of a supplemental application by the applicant in this proceeding for the approval by this Commission, pursuant to section 2906 of the Political Code, of any extension of the said wharf franchise which may be granted by the board of trustees of the city of Redondo Beach.

The effective date of this order is hereby fixed and designated as the tenth day of August, 1923.

Dated at San Francisco, California, this seventh day of August, 1923.

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DECISION No. 12464.

RICHFIELD OIL COMPANY

vs.

SUNSET RAILWAY COMPANY.

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Case No. 1793.

Decided August 7, 1923.

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RATES—RAILROAD—PETROLEUM FUEL OIL IN STRAIGHT CARLOADS.—Carrier ordered to desist collecting the existing rates, on or before September 5, 1923, and to establish a rate of five cents per 100 pounds, and to make reparation for amounts collected in excess of that rate, on and after July 1, 1922.

*Max Thelen, Carmichael, Skidmore Corp., and G. H. Baker, Attorneys for Plaintiff.*  
*E. W. Camp, Attorney for Defendant.*

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in the production, refining and marketing of petroleum oil and its products, with refineries located at Bakersfield and Los Angeles. In the course of its normal operations it makes shipments of crude oil in tank cars from points on the line of the Sunset Railway to its Bakersfield refinery where, after a partial refining process, the product is shipped to Los Angeles. At the latter point the refining is completed and the finished products shipped therefrom to distributing and consuming points in the state and elsewhere.

By complaint filed August 18, 1922, it alleges that the local rate charged since September 1, 1920, on numerous carload shipments of crude oil to Bakersfield from shipping points on the line of the Sunset Railway have been unreasonable and discriminatory. The Commission is asked to prescribe reasonable and nondiscriminatory rates for the future, and award reparation. Rates are stated in amounts per ton of 2000 pounds.

The shipping points here involved, eight in number, are all located on the line of the Sunset Railway. The distances from Bakersfield and the rate history since June 24, 1918, are shown in the following table:

	June 24, 1918	June 25, 1918	August 10, 1918	August 26, 1920	July 1, 1922
Maricopa ----- 41.8	37	45	130	162½	146½
Pentland ----- 37.3					
Kerto ----- 39.7					
Signa ----- 41.5	45	50	140	175	157½
Taft ----- 46.2					
Midoll ----- 49.9					
Fellows ----- 52.0					
Shale ----- 54.5					

From the above table it will be observed that the rates have been and now are grouped, the present rates from Maricopa, Pentland and Kerto being \$1.46½ and from the five other points shown \$1.57½. The average mileage to Bakersfield from points in the \$1.46½ group is 39.6 and from points in the \$1.57½ group 48.8 miles. A brief history of the rates involved is necessary to thoroughly understand the issues presented.

Under General Order No. 28 of the Director General of Railroads the rates on oil, as on practically all other commodities, were, effective June 25, 1918, increased 25 per cent. However, as the result of representations made to the railroad administration, a flat increase of 4½ cents per 100 pounds in all oil rates was substituted for the 25 per cent increase, applying throughout the nation, and this latter basis was made effective on August 10, 1918. As the result of these readjustments the rates of 37 cents and 45 cents in effect prior to June 25, 1918, became on that date 45 cents and 50 cents respectively, and on August 10, 1918, were increased to \$1.30 and \$1.40. The details of this readjustment are fully described in our Decision No. 11247, *W. P. Fuller and Company vs. Southern Pacific Company*, 22 C. R. C. 521, and cases there cited. Effective August 26, 1920, pursuant to our Decision No. 7983 of August 17, the rates were increased to \$1.62½ and \$1.75, and on July 1, 1922, were reduced to \$1.46½ and \$1.57½, which latter rates are still in effect.

The complaint really grows out of and is predicated upon the substitution, effective August 10, 1918, of a flat increase of 4½ cents per 100 pounds for the 25 per cent increase originally established on June 25, 1918, by General Order No. 28 of the Director General. Had the rates of 45 and 50 cents, made effective on the latter date, remained in effect and been further increased by 25 per cent on August 26, 1920, and reduced 10 per cent on July 1, 1922, the present rates would be 56½ and 67½ cents.



No other refinery in the state handles its refining of crude oil as does the complainant. Because of its manner of operations the complainant was called upon to bear the  $4\frac{1}{2}$  cents increase not once but three times; first in connection with the local movement of crude oil from the Sunset field to Bakersfield; second, on the partially refined oil from Bakersfield to the Los Angeles refinery and third, on the refined oil to distributing points within and outside the state. In order somewhat to relieve this situation the company arranged with competitors having topping plants in the field there to perform a certain amount of topping for them. Where this was done the partially finished product was shipped direct from the field to Los Angeles. This resulted in substantial savings in the freight charges, for the rate to many destinations in the state is no higher from points on the Sunset Railway than from Bakersfield, and to other destinations the through rates from the field are somewhat less than the aggregate of the intermediate rates based on Bakersfield. While a saving in the freight charges resulted from eliminating Bakersfield as a factor in the refining process, the costs of topping in the field were greater than if the company had itself performed the service at Bakersfield and, in addition, the company was unable to make full use of that plant for the purposes for which it had been purchased.

The refinery was built some time prior to 1917, but in the latter year was acquired by complainant who planned to draw its supply of crude oil from both the Sunset and Coalinga fields. Up to the time of the hearing, however, its purchases had been confined to the Sunset field. When the increased rates became effective in August, 1918, complainant was operating its plant practically at capacity, said to be from 3000 to 5000 barrels a day, but thereafter being unable, according to the testimony of its general manager, to profitably handle the oil at the Bakersfield plant on the increased rate, it shipped to Bakersfield only sufficient crude oil to take care of its contracts and with the expiration of those contracts has curtailed its local shipments to that point. The actual shipments for the past several years are shown in the following table:

Year ended August 1: 1918	900,000 barrels.
Year ended August 1: 1919	695,000 barrels.
Year ended August 1: 1920	670,000 barrels.
Year ended August 1: 1921	550,000 barrels.
Year ended August 1: 1922	470,000 barrels.

Expressed in cars, during the year 1918 the shipments were about 400 cars a month; at the time of the hearing they amounted to about 150 cars. The net profits from the operation at Bakersfield for the first year were \$255,000, for the following year a loss of between \$25,000 and \$30,000 resulted, and for the four years preceding August 1, 1922,

the total earnings of the plant were less than \$7,000 a year. This condition is said by complainant to be directly traceable to the higher freight rate which went into effect on August 10, 1918, and as subsequently increased. Its other refineries, as well as competing plants, are said to have shown a profit the year following the increase in rates, during which period there was a gasoline shortage which had a tendency to strengthen the market conditions. Despite the fact that the Bakersfield plant was operating at a loss, contracts for the purchase of crude oil in the field and for the sale of the finished products required that the operation be continued, in part at least, or that a plant be erected in the field. The building of a pipe line from the field to Bakersfield was also considered. The erection of a plant in the field was abandoned because of the difficulty of getting steel and equipment, and the question of reduced rates was taken up with representatives of the Railroad Administration, by whom it was passed from one committee to another and finally reached Washington. There it was declined in January, 1920. The negotiations were resumed, without effect, when the roads were returned to private ownership and finally this complaint was filed.

A witness for the defense testified that "On August 5, 1922, we offered the complainant a rate of 6 cents per 100 pounds for this business. We are still prepared to publish that rate, but we object to any reparation as we don't feel that the rates charged are unreasonable." There is apparently some misunderstanding in this situation as the general manager of the complainant testified that he had no knowledge of any such offer having been made. In any event the tendered rate is not satisfactory to the complainant. They refer to the fact, with respect to numerous rates throughout the state, that the increase of  $4\frac{1}{2}$  cents has been wholly or partially eliminated by subsequent readjustments and that this Commission permitted no such increase to be made by lines not under federal control. The ton mile, car mile and per car earnings are shown in the following table:

	Miles	Ton mile	Car mile	Per car
		Cents		
Maricopa .....	42 }	3.49	\$1 56	\$65 40
Pentland .....	37 } 1.46 $\frac{1}{2}$	3.96	1 77	
Kerto .....	40 }	3.67	1 64	
Signa .....	42 }	3.75	1 67	70 31
Taft .....	46 }	3.42	1 58	
Midoll .....	50 } 1.57 $\frac{1}{2}$	3.15	1 41	
Fellows .....	52 }	3.03	1 35	
Shale .....	55 }	2.86	1 28	

The majority of the shipments were made from Kerto, Signa and Shale. The 37-cent rate from Kerto, in effect on June 24, 1918, yielded ton-mile earnings of 9.2 mills; the 45-cent rate yielded ton-mile earn-

ings of 8.8 mills and 1.07 cents from Shale and Signa respectively. The rate of \$1.20 proposed by the defendant would yield ton-mile earnings from these three shipping points of 3 cents, 2.18 cents and 2.6 cents respectively. The average mileage from points in the two groups was 39.6 and 48.8 miles; the weighted average 39.7 miles and 47.2 miles.

Complainant's Exhibit No. 1 shows a total of 3907 cars involved in this proceeding, with freight charges amounting to \$297,657.73. The average number of miles each car moved was 45.4; weight of contents 89,278 pounds; freight charges \$76.11 per car; earnings per ton mile 3.76 cents and per car mile \$1.68. These earnings, however, must be discounted substantially, because for every mile of loaded movement there is a corresponding haul of empty equipment. The grade favors the loaded equipment. The cars leave the field in the morning, are spotted at the refinery in the afternoon, put back on the transfer at night, and frequently reach the plant again the following day. The unloading operations at the refinery take about twenty minutes per car and there is room for from thirty to thirty-five cars on the switch. Shipments of from fifteen to twenty cars a day from one station are not infrequent.

The evidence shows clearly that the movement of this fuel oil is regular and in heavy volume; that the service is rendered under most favorable operating conditions, entirely free from train interference; that in most instances the carriers receive a second haul and sometimes a third haul, and that the rates assailed are in excess of the rates for comparable service at other points in the same general territory. It would appear that the officials of the defendant, after having admitted to the complainant that a maladjustment of the rates existed from the producing wells to the refinery at Bakersfield, should at least have published the rates they concluded were reasonable instead of permitting the high rates to continue in effect, awaiting a final adjustment by formal proceeding before this Commission.

A large proportion of the stock of the defendant carrier is owned by the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, and it has been the policy of these parent carriers, since the war conditions have cleared, to reduce the rates on petroleum in various parts of the state between the producing and refining points and the consuming markets on their lines, but they have not seen fit to do so on the lines of the Sunset Railway Company, which they control and operate:

## CRUDE OIL RATES PER TON.

## Complainant's Exhibit No. 5.

From	To	Miles	June 24, 1918	August 26, 1920	July 1, 1922
Via Atchison, Topeka and Santa Fe Railway Co.					
El Segundo.....	Los Angeles .....	17	\$0 40	\$1 60	\$0 60
Olinda.....	Los Angeles .....	33	60	1 90	1 00
Los Angeles.....	Fullerton .....	24	60	1 90	90

## Via Pacific Electric Railway Co. (a Southern Pacific owned line).

San Pedro.....	Los Angeles .....	21	\$0 40	\$1 00	\$0 60
Long Beach.....	Los Angeles .....	18	40	1 00	60
Huntington Beach.....	San Pedro .....	25	1 70	2 60	1 00

## Via Southern Pacific Company.

Monterey.....	Davenport .....	57	\$0 50	\$1 80	\$0 90
Avon.....	Alvarado .....	54	60	1 90	1 10
Avon.....	Elmhurst .....	42	50	1 80	80
Huntington Beach.....	Los Angeles .....	43	1 70	2 60	1 00
San Pedro.....	Los Angeles .....	24	40	1 60	60

## Via Sunset Railway Company (Complainant's Exhibit No. 3).

Kerto.....	Bakersfield .....	40	\$0 37	\$1 62½	\$1 46½
Signa.....	Bakersfield .....	42	45	1 75	1 57½
Taft.....	Bakersfield .....	50	45	1 75	1 57½
Shale.....	Bakersfield .....	55	45	1 75	1 57½

It will thus be seen that the rates on the Sunset Railway are higher in proportion than rates on the same commodities for similar distances.

The testimony of the defendant was to the effect that the reduced rates in complainant's Exhibit No. 5 were for the most part depressed rates, some on account of potential water competition, such as the Monterey-Davenport rate, and also on account of threats of shippers to build pipe lines to carry their oil, in which case the rail carrier would be entirely deprived of the traffic. On the other hand, we have testimony of the complainant that the only reason they did not install a refining plant in the field, or build a pipe line from the producing wells to the refinery at Bakersfield, was that they had carried on negotiations, during federal control, with the freight rate committee, and since, with railroad officials, and were given to understand that relief would be granted, but these negotiations were without result.

Complainant made comparisons with the rates on fuel oil at different points within California, showing the earnings per ton mile, per car, and per car mile; they also presented an exhibit showing the rates and earnings on other commodities. In almost every instance the oil rates here under attack and the earnings secured were greatly in excess of the rates set forth in the exhibits, which latter rates appear to have been carefully selected in an effort to present a true picture of the situation.

Defendant also presented an exhibit with numerous rates on fuel oil, in order to show that the Sunset Railway rates were not excessive.

All of these exhibits have been carefully studied and considered.

Complainant's brief contains a rather complete analysis of the earnings of the Sunset Railway.. Admittedly they are substantial, even though consideration be given to the fact that they are derived largely from the oil traffic.

It will not be necessary to enter into details, but the statement set forth below is illustrative of the excellent earning capacity of the defendant. For the years shown the railway operating income was as follows:

1916-	\$170,112	39
1917-	201,956	61
1918-	191,489	97
1919-	259,575	16
1920-	397,913	87
1921-	470,680	09
1922-	306,023	28

There is no exact standard by which the reasonableness of rates can be measured, and while the traffic official who publishes the rate may exercise his best judgment in doing so, the changing market, competitive and operating conditions make the rate itself vary, so that the rate which is reasonable today may be unreasonable tomorrow.

Carriers have consistently insisted that the true test of a freight rate is its effect upon the movement of traffic. If the traffic moves freely under a given rate, that is said to be the best test of the reasonableness of the rate itself. Now, in this case the traffic has decreased, it has dwindled from 400 cars per month to 150 cars and, applying the test of free flow of traffic, would indicate that the rates *per se* were unreasonable from that standpoint at least.

Furthermore, there was little complaint of these rates until after the  $4\frac{1}{2}$  cents per 100 pounds increase was substituted for the otherwise uniform increase under General Order No. 28.

The Commission, in all cases such as this, where reparation is demanded, must fix the time when the rates involved became unreasonable and must determine when the shippers were entitled and carriers should have established the rates found to be reasonable. The evidence does not convince us that the rates prior to July 1, 1922, when the general 10 per cent reduction in freight rates took effect, were unreasonable, but viewing the matter in the light of the numerous oil rate adjustments made voluntarily by the carriers, in most instances to a much lower level than the 10 per cent reduction would have accomplished. we believe that the reasonable rate effective on July 1, 1922, for petroleum crude oil from all points on the Sunset Railway to Bakersfield would be \$1.00 per ton.

We find that the charges on complainant's shipments which moved prior to July 1, 1922, were not unreasonable or otherwise unlawful, but

we do find that the charges on the shipments that moved on and after that date were unreasonable to the extent they exceeded a rate of five cents per 100 pounds from Kerto, Maricopa, Taft, Pentland, Fellows, Midoil, Shale and Signa to Bakersfield; that complainant made the shipments as described and paid and bore the charges thereon upon the basis herein found unreasonable; that it has been damaged in the amount of the difference between the charges paid and those which would have accrued upon the basis herein found reasonable, and that it is entitled to reparation with interest. The complainant should submit statements of shipments to the defendant for check. Should it not be possible to reach an agreement, the matter may be referred to this Commission for further consideration and the entry of a supplemental order should such be necessary. Details of shipments made subsequent to the hearing may be included in the reparation statement filed thereunder, if accompanied with appropriate proof in the form of an affidavit that the shipments were made and the freight charges thereon were paid and borne by the complainant.

#### ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

*It is hereby ordered*, that the Sunset Railway Company be and is hereby notified and required to cease and desist, on or before September 5, 1923, and thereafter to abstain from publishing, demanding, or collecting their present rates for the transportation of petroleum crude oil, in straight carloads, from Kerto, Maricopa, Taft, Pentland, Fellows, Midoil, Shale and Signa to Bakersfield.

*It is hereby further ordered*, that said Sunset Railway Company be and is hereby notified and required to establish on or before September 5, 1923, upon notice to this Commission and to the general public by not less than five days filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of petroleum fuel oil, in straight carloads, from Kerto, Maricopa, Taft, Pentland, Fellows, Midoil, Shale and Signa to Bakersfield, a rate of five cents per 100 pounds, and,

*It is hereby further ordered*, that the Sunset Railway Company refund, with interest, to the Richfield Oil Company all charges that may have been collected in excess of five cents per 100 pounds, rate found to be reasonable for the transportation of petroleum fuel oil, involved in this proceeding, from Kerto, Maricopa, Taft, Pentland, Fellows, Midoil, Shale and Signa to Bakersfield, moving on and after July 1, 1922.

Dated at San Francisco, California, this seventh day of August, 1923.

## DECISION No. 12466.

IN THE MATTER OF THE APPLICATION OF G. A. RICHARDSON FOR  
PERMIT TO ESTABLISH A WATER SYSTEM AND TO DISTRIBUTE  
AND SELL WATER IN THE GOULD TRACT, NEAR THE CITY OF  
SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA.

Application No. 9194.

Decided August 8, 1923.

*J. W. Caldwell*, for Applicant.  
*I. O. Stangbye*, for the Consumers.

*WHITTLESEY*, Commissioner.

## OPINION.

In the above entitled proceeding, G. A. Richardson asks for a certificate of public convenience and necessity authorizing him to establish a water system and to sell water for domestic purposes in the Gould tract, a subdivision located about one-half mile southeast of the corporate limits of the city of Sacramento.

A public hearing in this matter was held at Sacramento, after all interested parties had been duly notified and given an opportunity to be present and to be heard.

The evidence shows that applicant subdivided the eighty acres comprising the Gould tract in 1910, and agreed to furnish water for domestic purposes to all purchasers of lots in the tract. The water system now consists of a 12-inch well, storage tank, an automatic electrically operated pump, and the necessary distribution mains of 6-inch diameter and smaller.

No charges have heretofore been made for the service rendered, and applicant at the hearing amended the application to include a request for the establishment of rates.

The evidence presented shows an actual expenditure in the construction of this water system of about \$6,500. Applicant does not, however, expect a full return, if any, on the investment at this time, and no data as to costs of operation are available. The rates established in the accompanying order will therefore be such as have been found reasonable for utilities operating under similar conditions in the general vicinity of this plant.

Applicant has in the past charged a few consumers with the cost of services and connections. This procedure is contrary to this Commission's orders affecting public utilities and applicant has signified his intention of discontinuing the practice and to return to consumers all amounts previously collected.

No other public utility water system is operating in this immediate vicinity and no one appeared to protest the granting of the certificate.

It therefore appears that the application should be granted.

The following form of order is recommended:

#### ORDER.

G. A. Richardson having made application for a certificate of public convenience and necessity and for the establishment of rates, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that G. A. Richardson operate a water system for the purpose of supplying water for domestic purposes to residents on the 80-acre Gould tract, a subdivision located approximately one-half mile southeast of the corporate limits of the city of Sacramento; and

*It is hereby ordered*, that G. A. Richardson be and he is hereby directed to file with this Commission, within twenty (20) days of the date of this order, the following schedule of rates to be charged for all water delivered to consumers subsequent to August 31, 1923:

#### *Monthly Flat Rates.*

1. Dwelling of six rooms or less, including irrigation of lot on which house is located, if not over 700 square yards.....	\$1 50
2. For each additional room over six in Item 1.....	10
3. Stores, shops, markets, halls, offices, each.....	1 50
4. Stables, public or private, for each head of stock.....	25
5. Sprinkling or irrigation not included in Item 1, for each month used, per 100 square feet.....	05
6. Construction use:	
For each barrel of cement or lime used.....	10
For each 1000 of bricks dampened.....	15
For settling trenches, per lineal foot.....	01
For settling graded streets, sidewalks, etc., per 100 square feet.....	25

#### *Monthly Meter Rates.*

From 0 to 500 cubic feet, per 100 cubic feet.....	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet.....	20
Over 1000 cubic feet, per 100 cubic feet.....	12

#### *Monthly Minimum Charges.*

For $\frac{1}{8}$ -inch meter.....	\$1 25
For $\frac{3}{8}$ -inch meter.....	2 25
For 1-inch meter.....	4 00
For 1 $\frac{1}{2}$ -inch meter.....	7 50
For 2-inch meter.....	12 00

NOTE.—Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum charge will purchase at the monthly meter rates as set out above. Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility the entire cost shall be borne outright by the utility. If installed at option of consumer, the actual cost thereof shall be deposited by the consumer with the utility and the amount so deposited shall be returned to the consumer as credits on monthly bills for water consumed at the rate of 30 per cent of such monthly bills.



*It is hereby further ordered*, that G. A. Richardson be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of August, 1923.

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DECISION No. 12467.

IN THE MATTER OF THE APPLICATION OF JAMES W. BREWSTER, SOLE OWNER OF WAWONA PARK WATER COMPANY (UNINCORPORATED), FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO SERVE WATER.

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Application No. 9216.

Decided August 11, 1923.

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*H. Stanley Benedict*, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held before Examiner Williams in the above entitled application in which James W. Brewster requests authority to operate a public utility water plant and to sell water for domestic purposes to a subdivision known as Wawona Park, and designated as Tract No. 5222, Los Angeles County.

The testimony shows that this water system was installed by J. P. and J. L. Fleming to aid in the sale of lots in Wawona Park and now supplies approximately 50 consumers. Applicant has entered into a contract to purchase the plant, desiring to operate the water system as a public utility and to charge a rate of \$1.50 per month for each eighty (80) foot lot, where the same is used for residential purposes only; provided that where there are two residences on an eighty foot lot then each will be charged \$1.50 per month. The Commission is also asked to establish a just and reasonable meter rate and a rate for business establishments.

The water supply is obtained from a flowing well, from which it is pumped directly into the distribution system by an automatically controlled pumping plant.

No other utility serves water in the vicinity, and no one appeared to oppose the granting of the certificate. It therefore appears that the application should be granted and a reasonable schedule of rates established as requested in the application.

**ORDER.**

James W. Brewster having made application as entitled above, a public hearing having been held thereon, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that James W. Brewster operate a water system for the purpose of supplying water for domestic purposes on the tract known as Wawona Park, and designated as Tract No. 5222, Los Angeles County; and

*It is hereby ordered*, that James W. Brewster be and he is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, effective for all water delivered to consumers subsequent to August 31, 1923.

*Monthly Flat Rates.*

For residence on 80-foot lot.....	\$1 50
For each additional residence.....	1 50

All other uses to be charged for at meter rates.

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility the entire cost shall be borne by the utility. If installed at the request of the consumer the cost of meter and installation shall be advanced by the consumer to the utility and the money so advanced shall be refunded to the depositor as credits on monthly bills for water furnished at the rate of 30 per cent of the total amount of such monthly bills.

*Monthly Meter Rates.*

500 cubic feet or less.....	\$1 25
500 to 1000 cubic feet, per 100 cubic feet.....	20
All in excess of 1000 cubic feet, per 100 cubic feet.....	15

*Monthly Minimum Charges.*

$\frac{3}{8}$ -inch meter.....	\$1 25
$\frac{1}{2}$ -inch meter.....	2 00
1 -inch meter.....	3 50
1 $\frac{1}{2}$ -inch meter.....	6 50
2 -inch meter.....	10 00

Each of the foregoing monthly minimum charges will entitle the consumer to the amount of water which that monthly minimum charge will purchase at the "monthly meter rates" set out above.

*It is hereby further ordered*, that James W. Brewster be and he is hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of August, 1923.

## DECISION No. 12474.

IN THE MATTER OF THE INVESTIGATION INTO THE METHODS AND PRACTICES OF OPERATION OF C. T. BOYD, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF HIGHWAY TRANSPORTATION COMPANY. ON THE COMMISSION'S OWN INITIATIVE.

Case No. 1916.

Decided August 14, 1923.

*W. P. Butcher, Jr.*, for Respondent C. T. Boyd.

*W. E. Libby and H. N. Blair*, for Triangle Orange County-Santa Ana Express, Pro testant.

*W. F. Lemon*, for Railroad Commission.

BY THE COMMISSION.

## OPINION.

Under date of May 23, 1923, this Commission issued its order to C. T. Boyd and C. S. Kent to appear and show cause, if any they had, why the certificates heretofore granted them by Decision No. 5836 on Application No. 4094 (decided October 9, 1918) and by Decision No. 8720 on Application No. 6368 (Decided March 9, 1921) should not be revoked and annulled and for such other and further action as the Commission might deem proper in the premises. This citation was based on the allegation that respondents had collected money due consignors on c. o. d. shipments and had failed promptly to remit same and that, when remittance had been made by check to consignors said checks were returned unpaid for lack of funds.

A public hearing herein was conducted by Examiner Williams at Los Angeles at which respondent, C. T. Boyd, appeared by attorney only and at which C. S. Kent made no appearance. It is in evidence that notice mailed as required by law to respondent Kent at his last known address, No. 221 South San Pedro street, Los Angeles, was returned undelivered. It was further admitted by counsel for respondent, Boyd, that the interest of Kent in the business had been acquired by Boyd about two years ago, though without application having been made to the Commission for approval of said transfer, and that Kent has now no interest in the business and that his present address is not known.

Respondent Boyd operates a freight and express transportation service under Decision No. 5836 between Los Angeles and Santa Ana under the name of the Highway Transportation Company, and also under Decision No. 6368 between Los Angeles and Santa Barbara under the name of the Highway Express. The service is generally known as the Blue Line because of the distinctive color of its vehicles. That portion of the certificate between Los Angeles and Venice granted by Decision No. 6368 was revoked under date of February 27, 1922 (Decision No. 10136), for the reason that respondent had abandoned the service without notice to the Commission. In support of the allegations in the order

Mr. W. F. Lemon, assistant service inspector of the Commission, presented sixteen informal complaints against the respondents. These complaints covered a period of fourteen months and each involved delay on the part of the respondents in making settlement with consignors. It was stipulated by counsel for respondent, Boyd, that these complaints in their entirety are accurate and that they be admitted as evidence.

In addition to the complaints, as testified to by Mr. Lemon, the testimony of Eugene Atkins, credit manager of the Kay Motor Supply Company, was presented.

The following tabulated statement epitomizes the testimony as relating to the respondent's failure, promptly, or at all, to transmit c. o. d. amounts:

Name	Shipment	Amount	Complaint	Payment
Pacific Welding and Supply Company.	April 17, '22	\$16 75	May 11, '22	June 8
Pacific Welding and Supply Company.	April 21, '22	19 61	May 11, '22	N. S. F.
Pacific Welding and Supply Company.	April 21, '22	25 11	May 11, '22	
Pacific Welding and Supply Company.	April 23, '22	25 11	May 11, '22	June 22
Pacific Welding and Supply Company.	May 4, '22	24 86	May 11, '22	Paid
Western Wholesale Drug Company.	Feb. 10, '23	57 02	Mar. 13, '23	Mar. 15, '23
Firestone Tire and Rubber Company.	Dec. 18, '22	37 46	Mar. 24, '23	June 7, '23
Oldfield Tire Company.	Dec. 18, '22	37 46	Mar. 6, '23	
H. L. Arnold.	Feb. 20, '23	74 00	May 5, '23	May 11, referred to maker; May 17, wired from Santa Barbara
Western Mechanical Works.	April 3, '23	51 15	May 22, '23	June 8, '23
Kay Motor Supply Company.	April 16, '23	65 07		June 27, '23
Kay Motor Supply Company.	Dec. 30, '22	176 90		June 22, '23

In addition on April 14, 1923, the Oldfield Tire Company presented further complaint to the Commission that its c. o. d. shipments to the Blake Motor Company of Santa Barbara were unsatisfied as follows: July 12, 1922, \$40.74; July 26, 1922, \$64.37; December 18, 1922, \$39.36. It was shown that these amounts had been paid a few days before the hearing, which was held June 27, 1923. It is important to note that many of these accounts were settled after the date of the institution of the proceedings herein, which was May 23, 1923.

The files of the informal complaints show much correspondence with the respondent, Boyd, and reveal the fact that he was several times warned of the danger of delaying remittances, that such conduct imperiled his operative certificate, and no communication of respondent disputes the essence of the complaint, whenever the files show the respondent answered the communications from the Commission. For more than a year the Commission has wrested amounts due consignors and others from respondent only with great delay and difficulty.

Nor was this the only evidence of the reluctant attitude of respondents. Mr. D. W. Davis, accountant of the Commission, testified that he had great difficulty in gaining access to the books of respondent; that the books were not kept at the office and that only certain books were brought from the home of respondent, Boyd, on the demand of witness.

Respondent's showing of cause why the certificates should not be revoked was through the testimony of J. S. Hunter, manager of the Santa Barbara office, and after June 1, 1923, manager of the entire operation under both certificates. He testified that all collections were deposited to the accounts of respondent, Boyd, but that Boyd alone could draw checks. On June 1, 1923, Hunter entered into an agreement by which Hunter was to purchase the operative rights for a consideration of \$25,000—\$5,000 cash and \$400 a month until paid, and interest at the rate of 7 per cent a month on deferred principal, Hunter to assume all debts. Hunter testified that the operation of the respondent was sufficiently profitable to carry such charges, approximately \$600 a month. He also testified that the \$5,000 "cash" payment consisted of money advanced by Hunter to Boyd, salary due Hunter and truck lease amounts due Hunter aggregating \$3,000. The equipment proposed to be transferred consists of equities in trucks aggregating about \$3000 and shop equipment, tools, etc. This agreement (respondent Boyd's Exhibit No. 4) was executed by W. P. Butcher, Jr., under general power of attorney for Boyd.

This transaction, as presented in the record, is not reassuring, even if, as stated by respondent's counsel, it is to the interest of creditors of respondent. The assumption of the debts of respondent, Boyd, in addition to the amount to be paid for the operating right by Hunter, is asking the shipping public to contribute in rates the cost of unwise management or worse over a period of years. These debts were not explained either in detail or aggregate, although the proposed agreement included them and Hunter agreed to assume them. The show of great profit is inconsistent with the acts of Boyd before June 1, 1923, and the essence of the contract is to burden the operation for many future years for Boyd's benefit.

In conclusion, and basing our findings upon the record, we hereby find as a fact, that respondent C. T. Boyd did in the matters enumerated on page 3 of this opinion willfully retain amounts of money legally due his consignors for shipments entrusted to him for delivery c. o. d. and that repeated efforts on the part of this Commission to induce settlement of the just claims of consignors were ignored until after the proceedings to revoke certificates herein were instituted by this Commission, and that such conduct was irresponsible and illegal; and, basing our conclusion upon these facts, we find that just legal cause has been given by respondent Boyd for the revocation of all operating rights now possessed by said respondent C. T. Boyd, and also such contingent or other right or interest therein as one C. S. Kent may have, or may have had.

Since the submission of the proceeding herein this Commission has been advised, and from investigation of its own officers, is in posses-

sion of the fact that respondent, Boyd, has abandoned his entire operations; that for at least a week subsequent to July 21, 1923, applicant's office at 221 South San Pedro street, Los Angeles, has been abandoned without notice to the shipping public or to this Commission, and that shippers have delivered in ignorance of such cessation of operations various consignments to this office where they were left for transportation by said respondent's service; that no protection was given these consignments, and that they have been pilfered from by reason of their exposed condition and that consignors and consignees alike have suffered from the abandonment of business.

#### ORDER.

An order having been issued on May 23, 1923, to C. T. Boyd and C. S. Kent to show cause why the certificate of public convenience and necessity heretofore granted them under their Application No. 4094, by Decision No. 5836, dated October 9, 1918, and under Application No. 6368 by Decision No. 8720, dated March 9, 1921, should not be revoked, and a public hearing having been held, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the findings of fact as set forth in the opinion preceding this order;

*It is hereby ordered*, that the certificate of public convenience and necessity heretofore granted by the Commission by its Decision No. 5826 on Application No. 4094, dated October 9, 1918, the respondents, C. T. Boyd and C. S. Kent, doing business under the fictitious name of the Highway Transportation, as a common carrier of freight and express between Los Angeles and Santa Ana and certain intermediate points, be and the same hereby is revoked and canceled and that no further operation by said C. T. Boyd or C. S. Kent may be made over the route as hereinbefore referred to.

*It is further ordered*, that the certificate of public convenience and necessity herein granted by the Commission by its Decision No. 8720 on Application No. 6368, dated March 9, 1921, granting to C. T. Boyd, doing business under the fictitious name of the Highway Express Company, as a common carrier of freight between Los Angeles and Santa Barbara, and between Los Angeles and Venice, be and the same hereby is revoked and canceled and that no further operations by said C. T. Boyd may be given over the route as hereinbefore referred to.

Dated at San Francisco, California, this fourteenth day of August, 1923.

## DECISION No. 12495.

IN THE MATTER OF THE APPLICATION OF THE HUNTINGTON BEACH TELEPHONE COMPANY FOR AUTHORITY TO ISSUE FIFTY THOUSAND DOLLARS OF BONDS TO BE SECURED BY A TRUST DEED AND MORTGAGE UPON ALL OF ITS PROPERTY AND ASSETS.

Application No. 8869.

Decided August 17, 1923.

*Ernest Irwin*, for Applicant.

MARTIN, *Commissioner*.

## OPINION.

In this application Huntington Beach Telephone Company asks the Railroad Commission to make an order authorizing it to execute a trust deed and mortgage and to issue and sell \$50,000 of first mortgage serial bonds for the purpose of purchasing and constructing additional properties.

The record shows that Huntington Beach Telephone Company was organized on or about August 31, 1916, for the purpose of acquiring the telephone properties of Huntington Beach Company, which company at that time was furnishing telephone service in Huntington Beach, Orange County. The company has an authorized capital stock of \$50,000, divided into 50,000 shares of the par value of \$1 each, of which \$24,500 was outstanding on December 31, 1922. Applicant has no bonded debt and, as of the same date, reported current liabilities of \$20,516.42. Since December 31, 1922, the Commission has authorized the company to issue and sell the remaining authorized stock, amounting to \$25,500 for the purpose of paying current liabilities and of financing the cost of additions and betterments.

It appears that applicant's telephone subscribers, as well as its revenues have been increasing rapidly. On December 31, 1920, the company reported 271 subscribers; on December 31, 1921, 432; on December 31, 1922, 583; and on April 25, 1923, 633. Its revenues and expenses for the years ending December 31st are reported as follows:

Item	1920	1921	1922
Operating revenue .....	\$5,704 45	\$15,984 47	\$21,433 83
Operating expenses .....	5,031 51	12,004 52	19,366 91
Net operating revenues.....	\$672 94	\$3,959 95	\$2,066 92
Less:			
Uncollectible revenues .....	\$1 70		
Taxes assignable to operation.....	328 00	\$369 94	\$798 41
Totals .....	\$329 70	\$369 94	\$798 41
Operating income .....	\$343 24	\$3,590 01	\$1,268 51

In Decision No. 12382, dated July 21, 1923, in Application No. 8761, the Commission reviewed applicant's rates, determining the reasonable rate base of applicant's properties for the period June 30, 1923, to June 30, 1924, as \$80,118. In the order in that decision the Commission authorized applicant to establish a new schedule of rates which will, it is thought, produce a gross revenue for the year ending June 30, 1924, of \$30,496, and net profits, after paying operating expenses, taxes and depreciation of \$6,473.

The company estimates that it should expend approximately \$46,000 for extensions, additions and betterments. It reports that it should expend \$12,000 to acquire real estate and to erect a suitable office building, \$7,000 for batteries and central office equipment, \$4,000 for cable extensions, \$4,000 for substation equipment, \$3,000 for exchange pole lines and \$1,000 for underground conduits and cables. In addition, it desires to expend about \$15,000 to purchase the properties of Smeltzer Home Telephone and Telegraph Company, a corporation giving telephone service in the town of Smeltzer and in territory adjacent to applicant's territory.

However, before the Commission can make an order authorizing applicant to use proceeds from the sale of its bonds to purchase the properties of Smeltzer Home Telephone and Telegraph Company, it will be necessary for that company to file a formal application with the Commission for permission to sell its properties. Such an application has not been filed and I do not believe the Commission can regard the present application as a basis for an order authorizing Huntington Beach Telephone Company to purchase the properties of Smeltzer Home Telephone and Telegraph Company.

To obtain the moneys required for the purposes mentioned herein, applicant proposes to create a bonded indebtedness and to issue and sell, at not less than 90 per cent of face value, \$50,000 of first mortgage serial bonds. The proposed bonds will bear interest at 6 per cent per annum and mature in annual installments of \$2,500 on the first day of January of each of the years 1925 to 1928, inclusive, and of \$5,000 on the first day of January of each of the years 1929 to 1936, inclusive.

Applicant has filed with the Commission a copy of its proposed trust deed and mortgage. This instrument provides for an authorized bond issue of \$50,000. It contemplates the appointment of two individuals, Clyde Johnson, president of the American Bank, Spokane, Washington, and Charles P. Lund of the same city, to act as trustees. It is of record that the bonds will be purchased by the two individuals, or by institutions with whom they are connected. Since the hearing the proposed trust deed and mortgage has been modified, and is now in satisfactory form.



I believe the application should be granted subject to the conditions contained in the following form of order which I herewith submit:

**ORDER.**

Huntington Beach Telephone Company having applied to the Railroad Commission for permission to execute a trust deed and mortgage and to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided and that the money, property or labor to be procured or paid for through the issue and sale of bonds is reasonably required by applicant;

*It is hereby ordered*, that Huntington Beach Telephone Company be and it is hereby authorized to execute a trust deed and mortgage substantially in the same form as the trust deed and mortgage filed in this proceeding; provided,

That, the authority herein granted to execute a trust deed or mortgage is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said trust deed or mortgage as to such other legal requirements to which said trust deed or mortgage may be subject.

*It is hereby further ordered*, that Huntington Beach Telephone Company be and it is hereby authorized to issue and sell, for cash, at not less than 90 per cent of their face value plus accrued interest \$50,000 of its first mortgage 6 per cent serial bonds.

The authority herein granted is subject to further conditions as follows:

1. Applicant may use \$30,000 obtained from the sale of the bonds herein authorized to be issued and sold, to finance the cost of acquiring real estate, erecting a new office building, of acquiring and installing central office equipment, batteries, cables, underground conduits, pole lines and telephone instruments, all of which are referred to in this application. The remainder of the proceeds obtained from the sale of the bonds may be expended by applicant only for such purposes as the Railroad Commission will hereafter authorize.

2. Within thirty days after its execution, applicant shall file with the Commission a certified copy of the trust deed or mortgage executed pursuant to the authority herein granted.

3. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public

Utilities Act, which fee is \$50. The authority to issue bonds will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of August, 1923.

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DECISION No. 12496.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES "G" BONDS IN THE AMOUNT OF FOUR MILLION DOLLARS PAR VALUE.

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Application No. 9300.

Decided August 17, 1923.

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*Paul Overton*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Los Angeles Gas and Electric Corporation to issue and sell, at not less than 95 per cent of their face value plus accrued interest, \$4,000,000 of its Series "G" 6 per cent general and refunding gold bonds for the purpose of reimbursing its treasury and financing the cost of new construction.

Pursuant to the authority granted by the Commission, applicant as of March 1, 1921, executed its general and refunding mortgage to secure the payment of an authorized issue of \$75,000,000 of bonds issuable in series, which bonds with respect to each series, may be of such denominations, may be issued and dated at such time or times, may bear such rate of interest, may mature at such time or times and may be subject to such terms of redemption or conversion as the directors of the company may determine.

Applicant heretofore has been authorized to issue and sell \$18,500,000 of such general and refunding bonds, consisting of \$2,500,000 of Series "A" 7 per cent bonds due March 1, 1926; \$3,500,000 of Series "B" 7 per cent bonds due March 1, 1931; \$1,500,000 of Series "C" 7 per cent bonds due June 1, 1931; \$2,000,000 of Series "D" 6 per cent bonds due March 1, 1942; \$5,000,000 of Series "E" 5½ per cent bonds due June 1, 1947, and \$4,000,000 of Series "F" 5½ per cent bonds due March 1, 1943. The company has now sold, subject to their issue being authorized by the Commission, \$4,000,000 of Series "G" 6 per cent bonds due March 1, 1942.

The company estimates (Exhibit "D") its net construction expenditures for 1923 at \$10,462,339. This amount is allocated by applicant as follows:

Gas works, including one 7 million cubic foot generator, purifiers with a capacity of 10 million cubic feet, three 1 million cubic feet per hour compressors, one 10 million and one 6 million cubic feet holders, four blowers with a combined capacity of 2½ million cubic feet per hour, together with auxiliary equipment and buildings-----	\$2,930,775 00
Electric works, including one 17,500 kilowatt turbo-generator and auxiliary equipment-----	1,577,775 00
Gas distributing system, including 250 miles commercial mains, 17 miles pressure mains, 20,000 gas services, 37,500 gas meters, 17,000 gas regulators-----	3,718,715 00
Electric distributing system, including 11,000 electric services and 18,000 electric meters-----	1,192,990 00
New site for general office building and 1923 portion of cost of building-----	365,000 00
Miscellaneous-----	246,184 00
Overhead expense-----	430,900 00
Grand total estimated net increase in capital accounts-----	\$10,462,339 00

The testimony of W. E. Houghton, applicant's comptroller, shows that of the \$10,462,339, the sum of approximately \$4,500,000 remains unexpended. Some of the expenditures have already been financed through the issue of bonds. As of June 30, 1923, the company had expended, according to the testimony, \$2,582,047.12, against which no bonds have been issued.

Los Angeles Gas and Electric Corporation has an authorized capital stock of \$30,000,000, divided into \$10,000,000 of 6 per cent preferred stock and \$20,000,000 of common stock. Of these amounts, there were outstanding on August 1, 1923, \$6,705,000 of the preferred and \$10,000,000 of the common stock, making a total of \$16,705,000. Applicant's funded debt outstanding on the same date is reported at \$29,365,500, and its notes payable at \$300,000. The funded debt includes \$1,500,000 of bonds pledged to secure the payment of \$1,000,000 of general and collateral trust 7 per cent bonds dated April 1, 1920.

#### ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue and sell \$4,000,000 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell, at not less than 95 per cent of their face value plus accrued interest, \$4,000,000 of its Series "G" 6 per cent general and refunding mortgage gold bonds due March 1, 1942, for the purpose of financing in part the construction expendi-

tures described in Exhibit "C" and in Exhibit "D" filed in this proceeding.

The authority herein granted is subject to further conditions as follows:

(1) Only such expenditures as are properly chargeable to capital account, as defined by the uniform classification of accounts prescribed by this Commission, may be financed through the issue of the bonds herein authorized.

(2) Los Angeles Gas and Electric Corporation shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds, as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted to issue bonds will become effective upon the payment by applicant of the fee prescribed by Section 57 of of Public Utilities Act, which fee is \$2,500, and such authority will expire on December 31, 1923.

Dated at San Francisco, California, this seventeenth day of August, 1923.

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DECISION No. 12497.

IN THE MATTER OF THE APPLICATION OF UNITED STATES FARM LAND COMPANY, A CORPORATION, ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF ARIZONA, AND OF S. W. DODDS AND M. R. DODDS FOR AN ORDER AUTHORIZING AND PERMITTING THE CONVEYANCE BY UNITED STATES FARM LAND COMPANY TO S. W. DODDS AND M. R. DODDS OF CERTAIN PROPERTY OWNED AND USED BY SAID CORPORATION FOR PUBLIC UTILITY PURPOSES AND FOR AN ORDER PERMITTING SAID VENDEE TO MORTGAGE SAID PROPERTY AS A PART OF THE SAME TRANSACTION.

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Application No. 9246.

Decided August 17, 1923.

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O. A. Robertson, for Applicants.

SEAVEY, Commissioner.

OPINION.

The Railroad Commission is asked in the above entitled application to make an order authorizing United States Farm Land Company, a corporation, to sell and transfer to S. W. Dodds and M. R. Dodds for the sum of \$15,000, the public utility water properties hereafter described. S. W. Dodds and M. R. Dodds join in the application and ask permission to acquire such properties and to execute a deed of trust upon the properties to secure the payment of \$10,000 of the purchase price. It is the intention of S. W. Dodds and M. R. Dodds to issue a

note for the sum of \$10,000, payable on or before five years after date, together with interest at a rate not to exceed 8 per cent per annum. They will pay \$5,000 of the purchase price in cash.

The properties which S. W. Dodds and M. R. Dodds have agreed to purchase from the United States Farm Land Company, are being used in the business of supplying water for domestic, household and other uses to the inhabitants and residents of the city of Chowchilla, in Madera County. The properties which the United States Farm Land Company asks permission to sell are more particularly described as follows:

That certain portion of Block "A" (as said Block "A" is shown on that certain map entitled, "Map of City of Chowchilla, Cal.," filed and recorded in the office of the Recorder of said County of Madera, State of California, on November 19, 1912, in Volume "3" of Maps, at page 20; to which said map reference is hereby made for greater particularity), more particularly described as follows: Beginning at a point in the southeasterly line of said Block "A," which point of beginning bears south 44° 45' west two hundred sixty (260) feet distant from the most easterly corner of said Block "A," said point of beginning also being the most southerly corner of that certain ninety-five one-hundredths (.95) acres of land owned by the Danish Creamery Association; running thence along the southwesterly line of said last mentioned parcel of land north 45° 19' west three hundred six (306) feet to a station; thence south 81° 31' west one hundred twenty-four and eight-tenths (124.8) feet to a station; thence south 45° 15' east three hundred eighty-four and twenty-five one-hundredths (384.25) feet to a station in said southeasterly line of said Block "A"; and thence along said last mentioned line one hundred (100) feet to the point of beginning. Containing seven hundred ninety-two one-hundredths (.792) acres of land, a little more or less.

Together with all water tanks, towers, meters, mains, pipes, franchises, rights of way, easements for installing and maintaining the same, and all physical properties used in connection with and necessary to the use of the water service system of the United States Farm Land Company, a corporation, now maintained by it in the said city of Chowchilla, and vicinity.

This public utility water plant at present furnishes water to approximately 175 consumers. The monthly gross operating revenues are estimated at about \$265.

There has been filed with the Commission in this proceeding a copy of the proposed deed of trust, which S. W. Dodds and M. R. Dodds ask permission to execute to secure the payment of \$10,000. This deed of trust is in satisfactory form.

I herewith submit the following form of order:

#### ORDER.

United States Farm Land Company having applied to the Railroad Commission for permission to sell its public utility water plant to S. W. Dodds and M. R. Dodds, who have joined in the application and who ask permission to execute a deed of trust to secure the payment of a \$10,000 note, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the note and the execution of the deed of trust is reasonably required by S. W. Dodds and M. R. Dodds, and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that United States Farm Land Company be and it is hereby authorized to sell to S. W. Dodds and M. R. Dodds for the sum of \$15,000, the properties described in the foregoing opinion.

*It is hereby further ordered*, that S. W. Dodds and M. R. Dodds be and they are hereby authorized to purchase such properties, and to issue a note for the sum of not more than \$10,000, said note to be payable on or before five years after date and to bear interest at not to exceed 8 per cent per annum.

*It is hereby further ordered*, that S. W. Dodds and M. R. Dodds be and they are hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding; provided

That the authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which such deed of trust may be subject.

The authority herein granted is subject to further conditions as follows:

(1) S. W. Dodds and M. R. Dodds shall use the proceeds obtained through the issue of the \$10,000 note, to pay in part, the cost of the properties which they are herein authorized to acquire.

(2) S. W. Dodds and M. R. Dodds may issue the \$10,000 note for a term of less than five years. If said note is issued for a term of less than five years, it may be renewed from time to time, provided that the term of the original note together with the term of any renewal notes shall not exceed five years after the date hereof.

(3) Within thirty days after obtaining title to the properties, which they are herein authorized to acquire, S. W. Dodds and M. R. Dodds shall file with the Railroad Commission a certified copy of the deed under which they hold title to such properties.

(4) The consideration being paid for the properties by S. W. Dodds and M. R. Dodds shall not be urged before this Commission, or any other public body, as a measure of the value of such properties for the purpose of fixing rates, or any purpose other than the transfer herein permitted.

(5) S. W. Dodds and M. R. Dodds shall keep such record of the issue and delivery of the note herein authorized and the disposition of the proceeds as will enable them to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted to execute a deed of trust and issue a note will become effective upon the payment of the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of August, 1923.

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DECISION No. 12503.

IN THE MATTER OF THE APPLICATION OF THE PETALUMA POWER AND WATER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF PREFERRED STOCK.

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Application No. 9254.

Decided August 18, 1923.

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A. B. Hill, for Applicant.

SEAVEY, Commissioner.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Petaluma Power and Water Company to issue \$100,000 of its 7 per cent cumulative preferred stock and to sell, at this time, \$60,000 of such stock at par for the purpose of obtaining funds to pay outstanding indebtedness and to finance the cost of extensions, additions and betterments to its plants and properties.

Petaluma Power and Water Company was organized on or about January 12, 1900, with an authorized capital stock of \$300,000, divided into 3000 shares of the par value of \$100 each, all shares being common. It appears that recently applicant's articles of incorporation have been amended so as to provide for an authorized capital stock of \$400,000, divided into \$300,000 of common stock and \$100,000 of preferred. The preferred stock bears cumulative dividends at the rate of 7 per cent per annum, has a preference over the common stock as to dividends and assets, and is redeemable at the option of the company upon any dividend payment date at 102 per cent of par value, plus accrued dividends.

All of applicant's common stock was issued prior to March 23, 1912, the effective date of the Public Utilities Act. It now desires to issue and sell \$60,000 of the preferred stock at not less than par to pay indebtedness and to provide the cost of capital additions. It is of record that during and since 1920, applicant, to obtain an adequate supply of water, found it necessary to purchase and develop additional water bearing lands at a cost of \$37,500, which money the company borrowed upon its 6 per cent demand notes. Both R. M. Hill, applicant's president, and F. D. Ellsworth, its general manager, testified that, in their opinion, the acquisition and development of the additional source of

water supply was necessary in order for applicant to render satisfactory service.

The application shows that the growth of the city of Petaluma will make it necessary for the company to extend its pipe lines and to make some improvements by replacing existing lines with new and larger pipe. These additions and improvements are described in some detail in Exhibit "B," which is attached to the petition, and are estimated to cost \$17,691.22. It is to obtain moneys to pay the outstanding liabilities of \$37,500 and to finance the cost of the additions and improvements of \$17,691.22, that this application is made.

Petaluma Power and Water Company is engaged in supplying water for domestic, manufacturing and public purposes in and about the city of Petaluma, Sonoma County, supplying about 2100 consumers. The company reports gross revenues for 1921 as \$40,942.54, for 1922 as \$47,026.02 and for the five months period ending May 31, 1923, as \$20,100.16. After paying operating expenses, including taxes and depreciation, it reports its gross corporate income as \$16,861.97 for 1921, as \$21,387.23 for 1922 and as \$6,190.42 for the first five months of 1923. Its net profit, after paying interest and making other deductions from income, is reported as \$10,428.01 in 1921, \$15,073.93 in 1922 and \$3,163.33 for the period from January 1, 1923, to May 31, 1923.

I believe the application should be granted as herein provided and herewith submit the following form order:

#### ORDER.

Petaluma Power and Water Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that this application should be granted as herein provided, and that the expenditures herein authorized are reasonably required by applicant;

*It is hereby ordered*, that Petaluma Power and Water Company be and it is hereby authorized to issue \$100,000 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, \$60,000 may be sold at not less than par and the proceeds used to refund the indebtedness and to finance the cost of the additions and improvements referred to in the foregoing opinion and in this application. Any proceeds not needed for such purposes shall be placed by applicant in a special bank account and expended only as authorized by the Commission in supplemental orders.
2. The remaining \$40,000 of stock may be sold only when, and at such price and for such purposes as the Commission may authorize in subsequent orders.



3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the date hereof. The authority to issue stock will expire on April 30, 1924.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of August, 1923.

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DECISION No. 12504.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application No. 9250.

Decided August 18, 1923.

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W. Hanisch, for Applicant.

SEAVEY, *Commissioner*.

OPINION.

In this application, as amended, Roseville Telephone Company asks permission to issue and sell at par \$17,150 of its common capital stock and to use the proceeds to reimburse its treasury on account of earnings invested in properties, to pay indebtedness and to finance the cost of additions and betterments.

Roseville Telephone Company was organized on or about April 1, 1914, with an authorized capital stock of \$25,000 divided into 2500 shares of the par value of \$10 each, all shares being common. It appears that applicant recently has instituted legal proceedings to amend its articles of incorporation so as to provide for an authorized issue of \$50,000 of stock, all of which will be common. At present the company reports \$25,000 of stock outstanding. It has no bonded indebtedness and as of July 21, 1923, its current liabilities are reported at \$2,107.21.

Applicant reports that it has expended from income for extensions, additions and betterments the sum of \$10,647.12. A detailed statement of these expenditures is on file in this proceeding. The \$10,647.12 is represented by the company's reserve for accrued depreciation and surplus. Applicant further reports that it has incurred indebtedness in the sum of \$2,107.21 because of the construction of additions and

betterments, and that it should immediately expend \$4,400 more for the following purposes:

Subscribers' stations -----	\$1,000 00
Aerial cable -----	3,000 00
Additions to switchboard for forty lines -----	400 00
<b>Total</b> -----	<b>\$4,400 00</b>

It is for the purpose of reimbursing its treasury, paying indebtedness and paying for the additional improvements that applicant asks permission to issue and sell \$17,150 of common stock. All money obtained from the sale of stock must be used to acquire and construct additional properties, improve applicant's service, or pay indebtedness.

Roseville Telephone Company is engaged in the business of supplying telephone service in and about the city of Roseville, Placer County, reporting about 800 subscribers. It reports gross revenues for the year 1920 as \$15,703.18, for 1921 as \$18,760.62 and for 1922 as \$18,521.98. After paying operating expenses, taxes and miscellaneous deductions from income, it reports net profit for 1920 as \$1,168.18, for 1921 as \$2,450.08 and for 1922 as \$958.10.

I believe the application should be granted and herewith submit the following form of order:

#### ORDER.

Roseville Telephone Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that Roseville Telephone Company be and it is hereby authorized to issue and sell, for cash, at not less than par \$17,150 of its common capital stock for the purpose of reimbursing its treasury, paying indebtedness and financing the cost of the extensions, additions and betterments referred to in the foregoing opinion and described in this application. All money obtained from the sale of the stock must be used to acquire and construct additional properties, improve applicant's service, or pay indebtedness referred to in this application.

The authority herein granted is subject to further conditions as follows:

(1) Within sixty days from the date of this order, Roseville Telephone Company shall file with the Commission a certified copy of its amended articles of incorporation.

(2) Roseville Telephone Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition

of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective when applicant has filed with the Commission a certified copy of its amended articles of incorporation. The authority to issue stock will expire on April 30, 1924.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of August, 1923.

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DECISION No. 12505.

BENJAMIN A. MCBURNEY

vs.

CLAREMONT DOMESTIC WATER COMPANY.

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Case No. 1898.

Decided August 18, 1923.

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**WATER UTILITY—SERVICE—UTILITY SHOULD OWN INSTRUMENTALITIES FOR RENDERING SERVICE—REFUND ORDERED.**—Claremont Domestic Water Company held to be a public utility service in relation to land of defendant, and ordered that same be continued. Reiterates previous ruling that utility should own the instrumentalities by means of which it renders service. Directs defendant to refund moneys paid by complainant for installation of a check valve.

*Nichols, Cooper and Hickson*, by *B. L. Cooper*, for Complainant.  
*William B. Himrod*, for Defendant.

BY THE COMMISSION.

**OPINION.**

This is a proceeding brought by Benjamin A. McBurney, who seeks to compel Claremont Domestic Water Company, a public service corporation, to supply water for irrigation use, at the utility's regular rates, on a ten-acre tract of land in the vicinity of Claremont. The Commission is also asked to compel defendant to refund the amount paid by complainant for the installation of a check valve, and to direct defendant to make such necessary changes in its pumping equipment as will enable the delivery to complainant of a head of at least fifty inches of water.

Defendant denies that complainant is entitled to public utility water service upon the lands described in the complaint, and avers that such service as has been supplied was upon the express understanding that

it was of a temporary nature and given only until such time as complainant could procure a water supply from other sources.

A public hearing in this matter was held before Examiner Satterwhite at Los Angeles, briefs have been filed, and the matter is now ready for decision.

The evidence shows that one C. T. Naftel was the owner of 120 acres of land, described as the northwest quarter of the southeast quarter, the northeast quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section 33, township 1 north, range 8 west, S. B. B. and M., in the vicinity of Claremont, Los Angeles County.

The Citizens Light and Water Company, a public service corporation, and the predecessor in interest of Claremont Domestic Water Company, the defendant herein, in 1892 or thereabouts purchased a 40-acre tract near Claremont, described as the southwest quarter of the southeast quarter of section 33, township 1 north, range 8 west, S. B. B. and M., and drilled a well thereon for the purpose of developing a supply of water for use by consumers in and in the vicinity of Claremont. Later, being desirous of securing an additional source of water supply, the company on October 10, 1908, entered into an agreement with C. T. Naftel whereby it was permitted to drill wells, to erect the necessary pump houses, and to lay pipes on the northeast quarter of the southeast quarter of section 33. Naftel reserved the right to develop and use; on this 40-acre tract, such water as might be necessary to properly irrigate the tract and for domestic use thereon.

Citizens Light and Water Company in turn agreed to furnish at actual cost water for irrigation and domestic use on the northeast quarter of the southeast quarter of section 33. Citizens Light and Water Company also agreed:

to furnish water, if procurable, from said well, or other wells hereafter bored on said land, at the same price and cost and under the same conditions, and in such quantities as may be necessary to properly irrigate the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of said section thirty-three, township one north, range eight west, S. B. M., as long as water is not developed on said pieces of land for other than domestic uses thereon; and for the purposes of this obligation, each square ten-acre portion of said two forty-acre tracts shall be deemed to be a separate tract and any of said tracts on which water is not so actually developed for other than domestic use shall be entitled to receive water from said northeast quarter of the southeast quarter; provided, that if water is developed thereon and is sold or used on lands other than said two forty-acre tracts the obligation to furnish water to said two forty-acre tracts shall forthwith cease.

Shortly after entering into this agreement Citizens Light and Water Company drilled a 14-inch well in the northeast quarter of the southeast quarter of section 33 and near the southwest corner thereof. Pumping machinery was installed and the company supplied water from this well to irrigators located on the three 40-acre tracts owned by Naftel, to domestic consumers in Claremont and vicinity, and also for the

irrigation of about 30 acres in the southwest quarter of the southeast quarter of section 33.

In 1919 owners of land in the 120 acres mentioned in the Naftel agreement incorporated for the purpose of forming a mutual company to develop a water supply and irrigate their lands therewith. This concern was named the Naftel Water Company and in the same year drilled a well on the southeast quarter of the southeast quarter of section 33, distant from 75 to 100 feet from the well owned and used by defendant, and thereafter furnished water for irrigation use on lands situated in each of the three 40-acre tracts specifically mentioned in the Naftel agreement. The use of this well materially lowered the water plane in defendant's well. The lands supplied by the Naftel Water Company comprised all of those formerly served by defendant and its predecessor in interest under the Naftel agreement, with the exception of a 10-acre tract owned by Mrs. A. E. Mullen, and described as the southwest quarter of the northwest quarter of the southeast quarter of section 33. Five acres of this tract had been planted to oranges in 1914.

Holding that the development of water on the southeast quarter of the southeast quarter of section 33 and its use on the northeast quarter of the southeast quarter of the same section was a violation of the Naftel agreement, defendant on February 28, 1921, notified Mrs. Mullen that it was no longer obligated to supply water for use on her land and advised her to take steps to secure another source of supply. Mrs. Mullen, a nonresident, decided to dispose of her property and in August, 1922, transferred the same to Benjamin A. McBurney, the complainant herein, together with a one-twelfth interest in the right of C. T. Naftel to secure water from defendant.

Under a temporary agreement complainant was furnished a supply of water for the irrigation of his 5-acre orchard during 1921, and in 1922 an agreement was entered into for the irrigation of the five acres of orchard with the provision that such service was to be given when defendant had surplus water; that the service could be terminated on thirty days notice; and that no continuing right would be acquired thereby. Complainant in 1922 planted the remaining five acres of his land to lemon trees, and in 1923 was furnished with water for irrigation purposes, under protest and in compliance with a request by this Commission that such service be rendered pending the final disposition of the present proceeding.

In 1921 complainant was compelled to pay defendant for the installation of a check valve on the pipe line leading to his land, it being claimed by defendant that such installation was necessary to relieve excessive strain upon its pumping machinery.

A careful consideration of the evidence clearly indicates that Citizens Light and Water Company, the predecessor in interest of defendant Claremont Domestic Water Company, was a public service corporation, and such contractual relations as were entered into by that company are subject to regulation by competent authority. A study of the Naftel agreement indicates that a strict interpretation of its provisions might deprive certain land owners, through no fault of their own, of the water supply necessary for the irrigation of their lands and cause them to expend a considerable amount of money in securing a substitute source of supply. Manifestly this Commission can not uphold defendant's contention that the obligation to furnish water to the land of complainant has ceased by reason of the acts of Naftel and his associates.

Attention is here called to the fact that on September 18, 1918, defendant Claremont Domestic Water Company filed application asking this Commission to fix "a fair and just charge to the seven irrigators supplied under the C. T. Naftel contract," and that this Commission proceeded to investigate the matter, held a public hearing thereon, and by Decision No. 6798 did fix rates for this service.

The Commission will therefore find that the supply of water to complainant's land is a public utility service and will order that the same be continued.

This Commission's Decision No. 2879, in Case No. 683, lays down the general principle that the utility itself should own the instrumentalities by means of which it renders service, and in accordance with this principle such moneys as have been paid by complainant McBurney to defendant for the installation of a check valve should be refunded by defendant.

The allegation of complainant to the effect that defendant's pumping equipment is delivering water at a rate of flow of less than 50 miner's inches and that its equipment should be placed in such condition as will enable the delivery of at least that amount of water, has had careful consideration. It appears, however, that pumping from the well of the Naftel Water Company has materially lowered the water plane in defendant's well and that, by reason of necessary changes in pumping equipment, the rate of delivery was reduced to approximately 35 miner's inches. It is evident that this is a condition not at all times within defendant's control and can not be changed except at an expense in excess of the possible benefits which might be gained.

#### ORDER.

Benjamin A. McBurney having made complaint against Claremont Domestic Water Company, a corporation, as entitled above, a public hearing having been held thereon, briefs having been filed, the matter

having been submitted, and the Commission being now fully advised in the matter:

It is hereby found as a fact that the service of water by Claremont Domestic Water Company, a corporation, for irrigation use upon the lands of Benjamin A. McBurney, more particularly described as the southwest quarter of the northwest quarter of the southeast quarter of section 33, township 1 north, range 8 west, S. B. B. and M., is a public utility service and should be continued; and that such amounts as have been paid to defendant by complainant for the installation of a check valve should be returned.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that Claremont Domestic Water Company, a corporation, be and the same is hereby directed to furnish such water as is required for irrigation use upon the land owned by Benjamin A. McBurney, and more particularly described as the southwest quarter of the northwest quarter of the southeast quarter of section 33, township 1 north, range 8 west, S. B. B. and M., at the regularly established rates for such service, and under reasonable regulations as to time, duration of "run," and rate of delivery; and

*It is hereby further ordered*, that Claremont Domestic Water Company, a corporation, be and the same is hereby directed to return to Benjamin A. McBurney the sum of one hundred nine dollars (\$109) by him paid to said company for the installation of a check valve upon the pipe leading from the said company's well to his land; and

*It is hereby further ordered*, that in all other respects the above entitled complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this eighteenth day of August, 1923.

## DECISION No. 12506.

NATIONAL MAGNESIA MANUFACTURING COMPANY, PRATT-LOW PRESERVING COMPANY, PACIFIC SILICATE COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1887.

Decided August 18, 1923.

RATES—RAILROAD—FUEL OIL IN TANK CARS.—Rate of  $8\frac{1}{2}$  cents per 100 pounds charged by Southern Pacific Company for transportation of fuel oil in tank cars from Richmond and other group shipping points to Redwood City held not unreasonable. Complaint dismissed.

*A. Larsson and John M. Desch*, for Complainants.  
*Elmer Westlake and F. W. Mielke*, for Defendant.

BY THE COMMISSION.

## OPINION.

The complainants in this proceeding are engaged in the manufacturing business, with plants located at Redwood City.

A public hearing was held before Examiner Geary at San Francisco on May 31, 1923, and the case having been duly submitted is now ready for an opinion and order.

By this complaint, filed March 16, 1923, it is alleged that the rate of  $8\frac{1}{2}$  cents per 100 pounds charged by the defendant for transportation of fuel oil in tank cars from Richmond and the other group shipping points to Redwood City, shown on page 61 of Southern Pacific Company's Local, Joint and Proportional Freight Tariff No. 333-G, C. R. C. 2496, is excessive, unjust and discriminatory. The complainant seeks a rate of 4 cents per 100 pounds to Redwood City, the same as is now in effect to San Francisco from Richmond and the other points specified.

The complainants also allege that the rate of  $8\frac{1}{2}$  cents per 100 pounds is in violation of section 24(a) of the Public Utilities Act upon the grounds that traffic from Richmond to San Francisco does at times pass via the circuitous all-rail route through Dumbarton and Redwood City in order to reach San Francisco. The direct route, however, and upon which the San Francisco rate is based, is through Oakland and car float, a distance of 15 miles, whereas from Richmond to San Francisco via Dumbarton and Redwood City, the distance is 67.2 miles, an excess haul of 52.2 miles. From Richmond to Redwood City via Dumbarton the distance is 41.8 miles and via San Francisco 40.4 miles. It will thus be seen that the haul to Redwood City via Dumbarton is 26.8 miles in excess of the distance to San Francisco and if moved through Oakland and San Francisco the excess is 25.4 miles.



The Commission, in one of its early decisions, Case No. 241, February 17, 1912, dealt with this same point. That proceeding involved a rate from Decoto to Millbrae, in which there was the same contention as set forth in the instant application. We dismissed the proceeding and used the following language (1 C. R. C. 89):

It is perfectly evident, however, that if the complainant's contention be correct then wherever there are alternate routes between the same points, whether these lines belong to the same or different carriers, the intermediate rate will not be greater than the through rate. In fact, a more ridiculous condition even than this will result. The line from Oakland to Niles, thence by way of Dumbarton cut-off to San Francisco, is practically circular. The rate from the nearest point to San Francisco to that point would, if complainant's contention be correct, fix the maximum rate which would be charged from any point on this circular route to San Francisco. It is just as logical to say that because the rate from Decoto to San Francisco is 85 cents per ton, and that it is possible for a shipment to move by way of the coast line to Burbank, and hence by way of the valley line through Bakersfield and Tracy to San Francisco, that the rate of 85 cents should prevail from all points between Decoto and San Francisco by this circuitous route as to say the points on the Dumbarton cut-off should all be affected by Decoto to San Francisco rate.

We are of the opinion that where a short route is available for the movement of traffic and the rate is based on the direct mileage, that mileage must be considered the controlling factor in arriving at a reasonable rate.

It is our conclusion from the testimony that the Richmond-San Francisco rate can not, by intermediate application, be made to apply at Redwood City and that there is no violation of the long and short haul provisions of the state constitution nor of the Public Utilities Act, and this feature of the complaint will not be given further consideration.

Prior to June 25, 1918, the rate on fuel oil, Richmond to Redwood City, was 4 cents per 100 pounds; on June 25, 1918, that rate was increased to 5 cents per 100 pounds in conformity with General Order No. 28 of the Director General of Railroads; effective August 10, 1918, the rate was increased to 8½ cents per 100 pounds, as per Freight Order No. 96. The rate of 8½ cents remained in effect until August 26, 1920, when it was increased to 10½ cents per 100 pounds, in compliance with Decision No. 7983 of this Commission (Ex Parte 74.), and was reduced July 1, 1922, to 9½ cents per 100 pounds following the recommendations of the Interstate Commerce Commission in Docket No. 13293 (68 I. C. 7676). On January 17, 1923, after a discussion between the Southern Pacific Company and this Commission, the rate was reduced to 8½ cents per 100 pounds, which rate is in effect at the present time.

It will thus be seen that the fuel oil rate has been reduced since August, 1920, from 10½ cents and is now the same as that established August 10, 1918. This 8½-cent rate is blanketed on the Coast Division of the Southern Pacific Company from San Bruno on the north to Redwood City on the south, a distance of 14.4 miles, and on the Western Division of the Southern Pacific Company from Irvington on the north

to San Jose on the south, a distance of 12.8 miles. This evidence also indicates that the fuel oil rates, in the Los Angeles and other territories where conditions are similar, are on practically the same basis for like distances.

The facts presented do not warrant us in finding that the rate assailed is unreasonable because it exceeded the rate to San Francisco, as complainant seeks to have us find. To do so would disrupt defendant's basis of constructing rates to points in this territory. The rate in effect has not been shown to be unreasonable *per se* or otherwise unlawful. The complaint will be dismissed.

#### ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation having been had, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed;

*It is hereby ordered*, that the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this eighteenth day of August, 1923.

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#### DECISION No. 12519.

IN THE MATTER OF THE APPLICATION OF A. H. MARX, AN INDIVIDUAL AND A. H. MARX AND R. H. CLARKE, COPARTNERS, TO SELL AND TRANSFER, AND OF SAN RAFAEL FREIGHT AND TRANSFER COMPANY, A CORPORATION, TO PURCHASE AND ACQUIRE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND OF SAN RAFAEL FREIGHT AND TRANSFER COMPANY, A CORPORATION, TO ISSUE STOCK.

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Application No. 9135.

Decided August 22, 1923.

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Gwyn H. Baker, for Applicants.

BY THE COMMISSION.

#### OPINION.

In this application the Railroad Commission is asked to make an order authorizing:

1. A. H. Marx, an individual, and A. H. Marx and R. H. Clarke, copartners, to sell and transfer their operative rights and properties, hereinafter described, to San Rafael Freight and Transfer Company, a corporation; and

2. San Rafael Freight and Transfer Company to issue two hundred shares of its common capital stock of the aggregate par value of \$20,000.

# CALIFORNIA RAILROAD COMMISSION DECISIONS.

public hearing was held before Examiner Fankhauser in San Francisco.

The record shows that San Rafael Freight and Transfer Company was organized on or about June 22, 1921, with an authorized capital of \$50,000, divided into 500 shares of the par value of \$100 each. It appears that the corporation was formed for the purpose of acquiring and operating the properties and business of A. H. Marx, an individual, and of A. H. Marx and R. H. Clarke, copartners. The company asks permission at this time to issue in payment for such property and business, \$20,000 of its stock, this amount being approximately equal to the reported total net cost of the assets to be acquired. As of December 31, 1922, applicants report the total cost of tangible and current assets to be acquired by the corporation, as follows:

Steamship "Mary E"-----	\$12,356 68
Trucks -----	4,552 53
Delivery cars -----	585 00
Trailers -----	250 00
Sausalito warehouse and wharf-----	3,943 76
Small warehouse -----	150 00
San Francisco office building-----	662 45
San Rafael warehouse equipment-----	148 00
San Quentin warehouse-----	400 00
Office furniture and fixtures-----	130 00
Prepaid rent -----	1,800 00
Cash -----	532 36
Account receivable -----	3,070 45
Materials and supplies-----	210 00
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Total assets -----	\$28,791 23
Less current liabilities-----	13,494 46
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Net assets -----	\$15,296 77

The testimony herein indicates that since December 31, 1922, in excess of \$5,000 of the current liabilities have been paid and that, in the opinion of applicants, the net value of the assets, because of additional improvements, has increased to an amount slightly less than the proposed transfer price. The figures appearing in the foregoing tabulation reflect, so the testimony shows, the cost of the properties plus the cost of improvements and additions since the date of purchase.

In addition to the physical properties the corporation will acquire certificates of public convenience and necessity if the proposed transfer is effected. It appears that A. H. Marx, as an individual, is the owner of a certificate to operate an automobile truck line between San Francisco and San Rafael, having acquired such certificate from J. H. Hansen pursuant to authority granted by the Commission in Decision No. 9225, dated July 12, 1921. It further appears that A. H. Marx and R. H. Clarke, as copartners, doing business under the firm name and style of San Rafael Freight and Transfer Company, are the owners of a certificate permitting them to transport express

and light freight between Sausalito and Santa Rosa, such certificate having been acquired from Frank J. McSherry, pursuant to an order of the Commission, Decision No. 9126, dated June 21, 1921. The rights covered by this certificate are more specifically defined in Decision No. 10579, made June 14, 1922, in Cases Nos. 1601 and 1608, wherein the Commission ruled that the terms express and light freight consisted of newspapers, ice cream, dairy products and package merchandise, provided that no single article termed "package merchandise" should weigh in excess of sixty pounds.

While the effect of this application is to bring the two certificates under one ownership, it is of record that applicants do not seek to consolidate, enlarge or expand such operative rights. The granting of this application should not be construed as authority to consolidate such rights or to expand them beyond the separate rights now held by A. H. Marx individually, and A. H. Marx and R. H. Clarke, as copartners.

The total operating revenues of the business to be acquired by the applicant corporation for the year ended December 31, 1922, are reported as \$46,539.55, consisting of \$36,354.29 received from freight business between San Francisco and San Rafael; \$3,805.80 received from express business between the same two points, and \$6,379.46 received from express business between Sausalito and Santa Rosa and intermediate points. For the same period operating expenses are reported as \$44,905.13 and nonoperating revenues as \$627.46, leaving a gross income for the year as \$2,261.88. The record in this proceeding shows that for the first six months of 1923 the gross corporate income amounted to in excess of \$3,000. It appears that there will be no change in the control or management of the business as a result of this proposed transfer.

#### ORDER.

Application having been made to the Railroad Commission by A. H. Marx, an individual, A. H. Marx and R. H. Clarke, copartners, and San Rafael Freight and Transfer Company, a corporation, for an order authorizing the transfer of properties and operative rights and the issue of \$20,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that A. H. Marx, an individual, and A. H. Marx and R. H. Clarke, copartners, doing business under the firm name and style of San Rafael Freight and Transfer Company, be and they are hereby authorized to transfer the properties and operative rights referred to in the foregoing opinion to San Rafael Freight and Transfer Company, a corporation, and San Rafael Freight and Transfer Company, a corporation, be and it is hereby authorized in

consideration therefor, to issue and deliver \$20,000 of its common capital stock and assume the payment of the current liabilities referred in the foregoing opinion and in this application.

The authority herein granted is subject to the following conditions:

1. A. H. Marx, an individual, and A. H. Marx and R. H. Clarke, partners, shall cancel immediately all time schedules, tariffs, rates and classifications at present on file with the Railroad Commission and San Rafael Freight and Transfer Company shall file immediately new time schedules, rates, tariffs and classifications, or adopt as its own, the time schedules, tariffs, rates and classifications heretofore filed with this Commission by A. H. Marx, an individual, and A. H. Marx and R. H. Clarke, copartners, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission, such cancellations and filings to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges, the transfer of which is herein authorized, may not again be transferred, assigned, leased, sold, hypothecated or operations thereunder discontinued unless the written consent of the Railroad Commission to such transfer, assignment, lease, sale, hypothecation or discontinuance shall have first been secured.

3. No vehicle may be operated by San Rafael Freight and Transfer Company, a corporation, under the authority contained in this decision unless such vehicle is owned by said company or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The price at which San Rafael Freight and Transfer Company is herein authorized to acquire properties shall never be urged before the Commission, or other court or public body having jurisdiction, as a measure of value of said properties for the purpose of fixing rates, for any purpose other than the transfer herein authorized.

5. No authority is hereby conveyed for the consolidation, enlargement or expansion of any operative rights beyond those heretofore held by A. H. Marx, an individual, and A. H. Marx and R. H. Clarke, partners, under the authority contained in decisions of this Commission referred to in the foregoing opinion.

6. The transfer of operative rights hereinabove authorized and the required cancellation and filing of tariffs and schedules shall be made not later than sixty days from the date of the order in this proceeding, unless the time for accomplishing the authorized transfers, the cancellation and filing of tariffs shall be extended by the further order of this Commission.

7. Within thirty days after the issue and delivery of the stock herein authorized San Rafael Freight and Transfer Company shall file with

the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

8. The authority herein granted to transfer rights and properties and to issue stock will become effective upon the date hereof and will continue for a period of sixty days after the date of this order.

Dated at San Francisco, California, this twenty-second day of August, 1923.

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DECISION No. 12520.

IN THE MATTER OF THE APPLICATION OF S. E. SHAFER FOR PERMISSION TO SUPPLY A PUBLIC UTILITY WATER SYSTEM IN THE TOWN OF WESTMINSTER.

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Application No. 9195.

Decided August 22, 1923.

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*Scarborough, Forgy and Reinhaus, by S. M. Reinhaus, for Applicant.*

BY THE COMMISSION.

OPINION.

In the above entitled application S. E. Shafer requests authority to operate a public utility water plant, and to distribute and sell water for domestic purposes to consumers located on the McCoy Tract No. 433, Orange County. Applicant further states that he is also willing to supply the old town of Westminster with water, provided, however, that said town will install the mains at its own expense.

A public hearing in this matter was held at Los Angeles before Examiner Williams, all interested parties having been duly notified and given an opportunity to be present and to be heard.

Testimony shows that applicant has entered into a contract with the owners of the McCoy Tract wherein he agrees for a consideration to lay pipes and install an automatic pumping system and to supply water to the purchasers of some 46 lots in the tract.

There is no other utility in the vicinity from which service can be obtained, and no one appeared to oppose the granting of the certificate. The rates requested in the application are reasonable as compared with the rates of other utilities operating in the same general vicinity. However, applicant's request for permission to charge \$16 for each service installation is contrary to the orders of this Commission, and when informed of the fact applicant stated that he did not desire to insist upon the granting of the request therefor.

A careful consideration of the evidence submitted indicates that the application should be granted in so far as it affects service to consumers located on the McCoy Tract, but that it does not appear

advisable at this time to grant a certificate covering the operation of a water system in the old town of Westminster until such time as more definite arrangements are made and submitted to the Commission regarding the method of financing the installation of a pipe system for serving the town.

The matter of rules and regulations to govern relations with consumers will be handled informally, as is the Commission's usual practice in proceedings of this character.

#### ORDER.

S. E. Shafer having made application as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that S. E. Shafer operate a public utility for the purpose of furnishing water for domestic use to consumers located on the McCoy Tract No. 433, Orange County, and

*It is hereby ordered*, that S. E. Shafer be and he is hereby directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates, effective for all water delivered to consumers subsequent to September 15, 1923:

#### *Monthly Meter Rates.*

For 600 cubic feet or less-----	\$1 25
All over 600 cubic feet, per 100 cubic feet-----	15

*It is hereby further ordered*, that S. E. Shafer be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-second day of August, 1923.

## DECISION No. 12528.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST MORTGAGE FIVE PER CENT GOLD BONDS, OF THE AGGREGATE FACE VALUE OF TWENTY-TWO MILLION DOLLARS.

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Application No. 8546.

Decided August 22, 1923.

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

The Railroad Commission by Decision No. 11467, dated January 6, 1923, authorized Spring Valley Water Company to issue \$22,000,000 face value of 5 per cent twenty-year bonds, or in lieu thereof, interim certificates of a like amount. The authority was granted subject, among others, to the following conditions:

a. (2) None of the bonds herein authorized to be issued shall be delivered until the Commission by supplemental order has authorized applicant to execute a mortgage or deed of trust securing the payment of the bonds.

b. (3) Upon having received authority from the Commission to execute a mortgage or deed of trust securing the payment of the bonds, applicant may use such part of the proceeds as is necessary to pay or refund the \$750,000 of 5 per cent notes due February 1, 1923, the \$2,500,000 of 6 per cent collateral trust notes due March 1, 1923, and the \$17,859,000 of 4 per cent general mortgage bonds due December 1, 1923. Any proceeds not used to pay the indebtedness mentioned may be expended only for such purposes as the Railroad Commission will hereafter authorize.

In Decision No. 11714, dated February 23, 1923, the Commission modified Decision No. 11467 and authorized applicant to expend not exceeding \$2,500,000 of the proceeds from the sale of interim certificates to pay \$2,500,000 of 6 per cent three-year collateral trust notes, due March 1, 1923. By Decision No. 12229, dated June 19, 1923, Decision No. 11467 was further modified so as to permit applicant to expend not exceeding \$750,000 of the proceeds obtained from the sale of interim certificates to pay off a note in the face amount of \$750,000. It appears that the \$750,000 note was paid through the sale by applicant to the Union Trust Company of San Francisco of United States Government bonds in a sufficient amount to realize funds to pay the note. On August 16th applicant filed with the Railroad Commission a copy of its proposed mortgage and deed of trust in lieu of that filed with the Commission on June 16th. It asks permission to execute a mortgage and deed of trust substantially in the same form as that



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with the Commission on August 16th. The company also asks permission to use the proceeds obtained from the sale of its bonds to pay its 4 per cent bonds due December 1, 1923, amounting to \$859,000; to reimburse its treasury because of having paid a \$750,000, and to pay in part the cost of additions and betterments installed on July 1, 1921.

The Commission has considered applicant's requests and believes they should be granted as herein provided; therefore, it is hereby ordered, that Spring Valley Water Company be and is hereby authorized to execute a mortgage and deed of trust substantially in the same form as the mortgage and deed of trust filed with the Railroad Commission on August 16, 1923; provided that the authority herein granted to execute a mortgage and deed of trust is for the purpose of this proceeding only, and is granted so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage and deed of trust as to such other legal requirements to which a mortgage and deed of trust may be subject.

It is hereby further ordered, that the order in Decision No. 11467, dated January 6, 1923, as amended, be and it is hereby further amended so as to permit Spring Valley Water Company to use the proceeds obtained from the sale of the bonds authorized to be issued and sold by said decision, to pay its 4 per cent bonds due December 1, 1923; to reimburse its treasury because of moneys expended to pay \$750,000 note referred to in such decision, and to finance the cost of additions and betterments to applicant's plants and properties installed subsequent to July 1, 1921.

The authority herein granted is subject to further conditions as follows:

Only such cost of additions and betterments as is properly chargeable to capital account under the uniform classification of accounts prescribed by the Railroad Commission shall be financed through the use of moneys obtained through the sale of the bonds.

Within thirty days after the execution of the mortgage and deed of trust herein referred to, applicant shall file with the Railroad Commission three (3) copies of such mortgage and deed of trust.

It is hereby further ordered, that Decision No. 11467, dated January 6, 1923, as amended, shall remain in full force and effect except modified by this third supplemental order.

Witness my hand at San Francisco, California, this twenty-second day of August, 1923.

## DECISION No. 12529.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO DISCONTINUE SERVICE AND SUSPEND OPERATION AND TAKE UP TRACKS ON PART OF ITS SYSTEM.

Application No. 5009 (Third Supplemental).

Decided August 23, 1923.

*R. G. Dilworth*, for Applicant.

*S. J. Higgins*, City Attorney, by *Stanley T. Howe*, Deputy City Attorney, for the City of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant, San Diego Electric Railway Company, a corporation, in accordance with its application amended at the public hearing, prays for an order of the Commission authorizing the discontinuance of service on its K street line from the intersection of Fifteenth and K streets along and upon K street to the intersection of Twenty-fifth and K streets, all in the city of San Diego.

A public hearing on this application was conducted at San Diego by Examiner Handford, the matter was duly submitted and it is now ready for decision.

Authority for discontinuance of service is requested for the reason that the portion of the street car line herein proposed to be abandoned is located on an unpaved street, and the physical condition of the line is such that if operation is to be continued practically an entire rehabilitation of the line will require to be made, the cost of reconstruction being estimated at \$33,660 if 60-pound rail and wooden ties are to be used, but if the present reconstruction standard of applicant is to be followed (which requires steel ties and 93-pound rail) the estimated cost of track reconstruction would amount to approximately \$42,760. Neither of the above estimates includes paving, which if required by the municipal authorities of the city of San Diego, would add an additional \$16,000 to the estimates heretofore given.

The abandonment of the line as herein requested will eliminate service now given for a distance of eight blocks on K street and patrons formerly using such line will require to use cars operated on Imperial avenue, Sixteenth street, Market street or Twenty-fifth street, but in no instance will it be necessary for any patron to walk a distance of more than 900 feet to secure service from the existing operative lines of the applicant. It is proposed to construct an extension of the so-called Market street line from the intersection of Twenty-fifth and Market streets upon and along Twenty-fifth street to the intersection of Twenty-fifth and K streets, such line continuing over existing tracks along and upon Twenty-fifth street to Grant avenue

and extending to the terminus of the line at Woolman avenue and thirtieth street.

The proposed abandonment of line and extension of the Market street line is in accordance with the general program of applicant company which was formulated in connection with Applications Nos. 3808 and 5009, and the opinion of the Commission as appearing in decision No. 6838, decided November 14, 1919, in which appeared the recommendation of this Commission's chief engineer and the apparent concurrence of the city of San Diego and the applicant to the elimination of the track for which abandonment is herein sought, and a portion of the elimination of duplicate facilities and unprofitable service.

At the hearing on this proceeding there was no appearance in protest, although due notice was published and all interested parties were personally served with notices.

After full consideration of the evidence in this proceeding and in consideration of the fact that this is a matter arising from a recommendation of the Commission in its decision on Applications Nos. 5009 and 3808, as hereinabove referred to, and that no protest against the granting of the application was made at the hearing hereon, the application should be granted, and the order herein be effective when applicant will have completed and placed in operation as a portion of the Market street line, the track construction on Twenty-fifth street from the intersection of Twenty-fifth and Market to the intersection of Twenty-fifth and K streets connecting at the latter point with existing tracks now operative on Twenty-fifth street and thence on Grant and Woolman avenues to a terminus at Woolman avenue and Thirtieth street.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and the matter being now ready for decision;

*It is hereby ordered*, that applicant, San Diego Electric Railway company, be and it is hereby authorized to suspend service and abandon its trackage now located on K street from the intersection of Sixteenth and K streets along and upon said K street to the intersection of Twenty-fifth and K streets, all in the city of San Diego.

This order shall become effective when applicant will have constructed and placed in operation an extension of its tracks on Twenty-fifth street from the intersection of Twenty-fifth and Market streets upon and along said Twenty-fifth street to the intersection of Twenty-fifth and K streets, and will have established service as an extension of the Market street line along said Twenty-fifth street, Grant avenue

and Woolman avenue to a terminus at the intersection of Woolman avenue and Thirtieth street, all in the city of San Diego.

Dated at San Francisco, California, this twenty-third day of August, 1923.

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DECISION No. 12537.

IN THE MATTER OF THE APPLICATION OF NOVATO UTILITIES COMPANY, A CORPORATION, FOR ORDER AUTHORIZING INCREASE IN RATES FOR WATER SERVICE.

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Application No. 9256.

Decided August 23, 1923.

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*J. W. Cain*, for Applicant.

*WHITTLESEY*, Commissioner.

**OPINION.**

In this proceeding Novato Utilities Company, a public service corporation engaged in furnishing electric, telephone and water service to consumers in and in the vicinity of Novato, Marin County, makes application for an increase in its minimum monthly meter rates.

The application alleges in effect that the revenues of the water system have not been sufficient to allow applicant a reasonable return upon its investment in the property devoted to the public use.

A public hearing in this matter was held at Novato, at which all interested parties were given an opportunity to be present and to be heard.

For a description of applicant's water system reference may be made to Decision No. 8174, dated October 1, 1920, volume 18, page 957, Opinions and Orders of the Railroad Commission of the State of California. Since the date of this decision the utility has installed an additional pump and motor for standby service, has made extensions of mains in order to care for additional consumers, and has installed meters. Eighty consumers are now supplied with water, thirty-two of whom are served at meter rates.

John Spencer, one of the Commission's hydraulic engineers, presented a report at the hearing, which was not questioned by either the utility or the consumers. This report shows an estimated original cost of the system amounting to \$16,928; a reasonable depreciation annuity of \$292; and an estimated future reasonable maintenance and operation expense of \$1,400 per annum. Revenues from the sale of water for the year 1921 were \$1,771; for the year 1922, \$2,672; and for the first six months of 1923, \$999. The evidence shows that the revenues for the entire year will be considerably lower than for the

year 1922, as a consumer of large quantities of water during 1922 has since ordered his service discontinued.

Consideration of the evidence submitted indicates that the utility is entitled to additional revenue, and the schedule of rates set out in the accompanying order is designed to produce sufficient revenue to cover maintenance and operation expense, depreciation annuity, and what, under the circumstances, is a reasonable return upon the investment in the property devoted to the public use. Applicant does not at this time expect a full return upon the investment.

The rate schedule established is lower than the rates charged by Marin Municipal Water District, which supplies water to consumers in the same general vicinity as Novato Utilities Company.

It is recommended that the utility proceed, as rapidly as finances will permit, to place meters upon all services now supplied at flat rates in order that all consumers may be charged in accordance with their actual use of water and so that the cost of rendering service may be equitably distributed among the consumers.

The following form of order is submitted:

#### ORDER.

Novato Utilities Company having made application for authority to increase the monthly minimum charges for metered service to consumers in and in the vicinity of Novato, Marin County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed therein:

It is hereby found as a fact that the rates now charged by Novato Utilities Company, a corporation, for water delivered to consumers in and in the vicinity of Novato, Marin County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion,

*It is hereby ordered*, that Novato Utilities Company, a corporation, be and the same is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates for water delivered to consumers in and in the vicinity of Novato, Marin County, subsequent to September 15, 1923:

#### Monthly Meter Rates.

From 0 to 750 cubic feet, per 100 cubic feet-----	\$0 20
From 750 to 5000 cubic feet, per 100 cubic feet-----	18
All over 5000 cubic feet, per 100 cubic feet-----	15

*Monthly Minimum Charges.*

For $\frac{3}{4}$ -inch meter-----	\$1 50
For $\frac{1}{2}$ -inch meter-----	1 75
For 1 -inch meter-----	2 25
For 1 $\frac{1}{4}$ -inch meter-----	2 75
For 1 $\frac{1}{2}$ -inch meter-----	3 50
For 2 -inch meter-----	5 00
For 3 -inch meter-----	8 75

Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum charge will purchase at the "monthly meter rates" set out above.

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, the entire cost shall be borne outright by the utility. If installed at the option of the consumer, the actual cost thereof shall be deposited by the consumer with the utility, and the amount so deposited shall be returned to the consumer as credits on the monthly bills for water consumed at the rate of 50 per cent of such monthly bills.

*Monthly Flat Rates.*

Each consumer now supplied under the present schedule of flat rates shall continue to be charged in accordance with such flat rate schedule until such time as a meter is installed upon his service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of August, 1923.

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DECISION No. 12547.

IN THE MATTER OF THE APPLICATION OF H. P. HARRALSON THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF A TELEPHONE LINE FROM DINUBA TO GENERAL GRANT NATIONAL PARK.

## Application No. 7627.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS REEDLEY-SQUAW VALLEY-DUNLAP-PINEHURST-CEDARBROOK AND CEDARS LINE TO GENERAL GRANT NATIONAL PARK.

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Application No. 7694.

Decided August 25, 1923.

BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

The Railroad Commission on March 28, 1923, issued its Decision No. 11837, in connection with the above entitled proceeding, in which it authorized H. P. Harralson to construct and operate a telephone line extending from Dinuba through Orosi, Drum Valley and Mira-

nonte to General Grant National Park with an extension thereof to Badger, subject to certain conditions as set forth in the order of the decision referred to above, and further authorized H. P. Harralson to publish and file certain schedules of rates and charges for local exchange, toll and telegraph service, as set forth in its Exhibit No. 12, heretofore filed in this proceeding, unless otherwise authorized.

The order in this proceeding further stated that this line, herein referred to, was to be constructed and placed in operation on or before July 1, 1923. An order extending time to September 1, 1923, was granted H. P. Harralson for the construction of the telephone line from Dinuba to General Grant National Park.

The Commission is now informed that a portion of this line is constructed and that service is desired over this portion of the line.

The Commission now finds that certain modifications should be made in the toll rates requested by the applicant in his Exhibit No. 12, referred to in the order of this Commission's Decision No. 11837, in order to include certain toll points not heretofore considered, and also to make certain modifications in the rates that they might be comparable with other rates for similar service rendered under similar conditions.

The rates set forth in the exhibit attached hereto are reasonable rates for the service to be rendered by applicant.

#### ORDER.

The Commission being informed that a portion of the telephone line ordered to be constructed from Dinuba to General Grant National Park, in this Commission's Decision No. 11837, is now completed and that service is now desired over this completed portion, and the Commission finding after further investigation that the rates and charges for toll service authorized in Decision No. 11837, should be modified in certain respects, and that the rates and charges, as set forth in the Exhibit "A" attached hereto, are just and reasonable rates;

*It is hereby ordered*, that H. P. Harralson be and he is hereby authorized to establish and file with the Railroad Commission the rates for telephone and telegraph service, as set forth in Exhibit "A" attached hereto, effective for service rendered on and after September 1, 1923; provided, said rates are filed with the Railroad Commission on or before August 31, 1923.

Dated at San Francisco, California, this twenty-fifth day of August, 1923.

## EXHIBIT "A."

## Exchange Service—Schedule No. A-1.

*General Service.*

Applicable to individual and party line flat-rate service within primary rate area which includes all territory within one-half mile radius from company's central office.

*Rate.*

Individual line service..... \$5 00 per month  
Six-party line service..... 3 50 per month

*Conditions.*

Company furnishes and maintains all telephone instruments and equipment and lines to subscribers within the primary rate area.

## Exchange Service—Schedule No. A-2.

*Farmer Line Service.*

Applicable to farmer line service outside the primary rate area.

*Rate.*

Six dollars per station per year.

*Conditions.*

(1) The company installs, owns and maintains at its expense the necessary central office equipment and service, line facilities to the boundary of the primary rate area, one listing in the directory and a code ring card.

(2) The subscriber installs, owns and maintains at his expense the necessary facilities from the company line at the boundary of the primary rate area to the subscriber's instrument.

## Exchange Service—Schedule No. A-3.

*Mileage Rate.*

Applicable to general service outside the primary rate area.

*Rate.*

The rates given herein apply in addition to the regular flat-rate charges given under Schedule A-1.

	Monthly rate per $\frac{1}{4}$ mile or fraction thereof (Air line distance)
Individual line service.....	\$0 50 per line
Six-party line service.....	25 per station

## Toll Service—Schedule B-1.

*General Service.*

Applicable to station to station, person to person and appointment and messenger toll service charges between all toll stations of system.

(1) Station to station day service.

## Rate for Initial Period of 5 Minutes or Less.

	Dinuba	Miramonte	Badger	Sequoia Lake
Dinuba .....				
Miramonte .....	\$0 20			
Badger .....	20	\$0 10		
Sequoia Lake .....	25	10	\$0 10	
Gen. Grant Park headquarters	25	10	10	\$0 10
or				
Willsonia .....	25	10	10	10

Rate for each minute after the first five minutes is 5 cents per minute or fraction.

(2) Person to person, appointment and messenger rate and report charge.



*Rate for Initial Period of 3 Minutes or Less.*

Station to station day service rates	Corresponding completed person to person rate	Corresponding completed appointment and messenger rate	Corresponding report charge
\$0 10	\$0 15	\$0 20	\$0 05
15	20	25	10
20	25	30	10
25	30	35	10

Rate for each minute after the first three minutes is 5 cents per minute or fraction.

## (3) Night rates.

Night rates are the same as station to station service.

**Telegraph Service—Schedule C-1.***General Service.*

Applicable to general telegraph service between all points on system, including Vinuba, Miramonte, Badger, Sequoia Lake, General Grant Park headquarters and Vilsonia.

*Rate.*

Service	Rate
Telegrams.....	30 cents for the first 10 words or less and 2½ cents for each additional word.
Day letters.....	45 cents for the first 50 words or less and 9 cents for each additional 10 words.
Night letters.....	30 cents for the first 50 words or less and 6 cents for each additional 10 words.

## DECISION No. 12549.

IN THE MATTER OF THE APPLICATION OF THE SANTA FE AND LOS ANGELES HARBOR RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCK UNDER THE PROVISIONS OF SECTION 52 OF THE PUBLIC UTILITIES ACT OF THE STATE OF CALIFORNIA.

Application No. 9236.

Decided August 27, 1923.

I. W. Reed, for Applicant.

BRUNDIGE, Commissioner.

**OPINION.**

Santa Fe and Los Angeles Harbor Railway Company asks permission to issue and sell, at par, \$50,000 of its common capital stock. It intends to issue \$49,500 of such stock (495 shares) to The Atchison, Topeka and Santa Fe Railway Company and \$500 (5 shares) to its board of directors. The Atchison, Topeka and Santa Fe Railway Company asks permission to acquire and hold \$49,500 of the stock of the Santa Fe and Los Angeles Harbor Railway Company.

The Santa Fe and Los Angeles Harbor Railway Company has under construction a line of railroad extending from a connection with the Redondo branch of The Atchison, Topeka and Santa Fe Railway Company at or near El Segundo; thence running in a general south-

easterly direction to the city of Torrance, a distance of about seven miles; thence continuing in a southeasterly direction to Wilmington (city of Los Angeles), all in the county of Los Angeles, a distance of about twelve and one-half miles. The funds to acquire and construct such line of railroad will be furnished by The Atchison, Topeka and Santa Fe Railway Company. In part payment for moneys advanced for such purpose, The Atchison, Topeka and Santa Fe Railway Company has agreed to purchase and accept, at par, \$49,500 of the Santa Fe and Los Angeles Harbor Railway Company stock.

It appears from an exhibit filed in this proceeding that the Interstate Commerce Commission has authorized the Santa Fe and Los Angeles Harbor Railway Company to issue \$50,000 of stock. No protest was filed against the granting of this application.

I herewith submit the following form of order:

#### ORDER.

Santa Fe and Los Angeles Harbor Railway Company having applied to the Railroad Commission for permission to issue \$50,000 of stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that Santa Fe and Los Angeles Harbor Railway Company be and it is hereby authorized to issue and sell for not less than par \$50,000 of its common capital stock; \$49,500 of such stock shall be issued to The Atchison, Topeka and Santa Fe Railway Company, which is hereby authorized to acquire and hold such stock, and \$500 to the board of directors of the Santa Fe and Los Angeles Harbor Railway Company. All proceeds obtained from the sale of stock herein authorized to be issued shall be used by the Santa Fe and Los Angeles Harbor Railway Company to pay, in part, the cost of acquiring and constructing the line of railroad described in this application.

The authority herein granted is subject to further conditions as follows:

(1) Santa Fe and Los Angeles Harbor Railway Company shall keep such record of the issue, sale and delivery of the stock herein authorized to be issued and the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority to issue and sell stock will become effective upon the date hereof, and will expire on December 1, 1923.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of August, 1923.

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DECISION No. 12550.

THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF TWO HUNDRED SEVEN THOUSAND ONE HUNDRED DOLLARS PAR VALUE FIRST AND REFUNDING MORTGAGE SERIES "B" GOLD BONDS, THE SAME BEING ADDITIONAL TO THE ISSUE OF SEVEN MILLION, FOUR HUNDRED SEVENTY-FOUR THOUSAND SIX HUNDRED DOLLARS PAR VALUE OF BONDS HERETOFORE AUTHORIZED BY THE RAILROAD COMMISSION OF CALIFORNIA.

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Application No. 9292.

Decided August 27, 1923.

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*R. Ferguson*, for Applicant.

UNDIGE, *Commissioner*.

OPINION.

In this application The Southern Sierras Power Company asks permission to issue and sell, at not less than 85 per cent of face value plus accrued interest, \$207,100 of its Series "B" first and refunding mortgage 6 per cent bonds due January 1, 1965, for the purpose of financing the cost of extensions, additions and betterments to its plants and properties.

By Decision No. 12334, dated July 11, 1923, the Commission authorized applicant to issue and sell \$308,600 of bonds to finance in part construction expenditures made prior to December 31, 1922. The present application involves the financing of construction expenditures made subsequent to December 31, 1922, and prior to May 31, 1923. Applicant reports that during this period it expended for additions and betterments the sum of \$608,182.68, as shown in some detail in Exhibit "B," attached to the petition. From this amount it deducts 9,161.12, representing property displaced, and \$305,293.08, representing amounts carried in construction work in progress, which heretofore have been included in certificates requesting the issue of bonds, leaving a balance of \$243,728.48, against which it reports no bonds have been certified. In making the present application, the company asks permission to issue and sell bonds in face amount equal to 85 per cent of these reported expenditures.

The company, as of June 30, 1923, reported \$7,336,000 of bonds outstanding, consisting of \$2,528,000 of first mortgage 6 per cent

bonds, dated September 1, 1911, and due September 1, 1936; \$2,343,000 of Series "A" first and refunding mortgage 6 per cent bonds, dated November 1, 1915, and due January 1, 1965; \$2,165,000 of Series "B" first and refunding mortgage 6 per cent bonds, dated December 1, 1920, and due January 1, 1965, and \$300,000 Coachella Valley Ice and Electric Company's first mortgage serial 6 per cent bonds, dated January 1, 1912, and maturing at the rate of \$15,000 on the first day of January of each of the years 1937 to 1956, inclusive. The company reports its authorized and outstanding capital stock as \$5,000,000, all common. In addition, it reports, as of June 30, 1923, advances from affiliated companies as \$500,000, reserve for accrued depreciation as \$604,109.83, and corporate surplus unappropriated as \$213,747.90. The company's gross revenues during 1921 are reported as \$2,121,932.65 and during 1922 as \$2,134,478.78. Operating expenses, including taxes and depreciation, are shown as \$862,980.63 in 1921 and \$814,075.10 in 1922, leaving gross corporate income of \$1,258,952.02 in 1921 and \$1,320,403.68 in 1922. For the six months ended June 30, 1923, applicant reports its gross revenues as \$1,123,069.77, operating expenses, including taxes and depreciation, as \$457,166.58, and gross corporate income as \$665,903.19. During 1921 the company included in operating expenses \$212,129.80 on account of depreciation; in 1922 \$184,324.75, and during the six months ending June 30, 1923, \$73,943.01.

I have considered the testimony in this proceeding, as well as the company's financial statements on file with this Commission. I believe that the company should receive for its bonds an amount equal to at least 88 per cent of the face value of the bonds sold plus accrued interest.

I herewith submit the following form of order:

#### ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that The Southern Sierras Power Company be and it is hereby authorized to issue and sell, at not less than 88 per cent of their face value plus accrued interest, \$207,100 of its Series "B" first and refunding mortgage 6 per cent bonds due January 1, 1965, and to use the proceeds to finance, in part, the cost of the extensions, additions and betterments referred to in the foregoing opinion, and through such financing, pay outstanding indebtedness.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue and sell bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$208, and will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of August, 1923.

#### DECISION No. 12551.

IN THE MATTER OF THE APPLICATION OF THE SANTA FE AND LOS ANGELES HARBOR RAILWAY COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO LEASE THE LINE OF RAILROAD OF THE FORMER COMPANY, TOGETHER WITH RIGHTS, PRIVILEGES AND FRANCHISES THERETO PERTAINING, TO THE LATTER COMPANY.

Application No. 9237.

Decided August 27, 1923.

W. Reed, for Applicant.

RUNDIGE, Commissioner.

#### OPINION.

Santa Fe and Los Angeles Harbor Railway Company asks permission to lease its line of railway now under construction to The Atchison, Topeka and Santa Fe Railway Company, such lease to be made pursuant to the terms and conditions of the lease filed in this proceeding and marked "Exhibit A." The latter company joins in the application. It, through stock ownership, will control the Santa Fe and Los Angeles Harbor Railway Company. All of the money necessary to acquire and construct the line of railway in question is being advanced by The Atchison, Topeka and Santa Fe Railway Company.

The proposed line of railroad extends from a connection with the Edondo branch of The Atchison, Topeka and Santa Fe Railway Company, at or near El Segundo; thence running in a general south-

easterly direction to the city of Torrance, a distance of seven miles, more or less; thence continuing in a southeasterly direction to Wilmington (city of Los Angeles), all in the county of Los Angeles, a total distance of about 12½ miles. Under the proposed lease, The Atchison, Topeka and Santa Fe Railway Company, lessee, agrees to pay to or for the Santa Fe and Los Angeles Harbor Railway Company, lessor, the following amounts:

(a) All interest which during said term shall accrue upon any indebtedness which shall be incurred by the lessor with the written consent of the lessee and shall be owned by parties other than the lessee.

(b) All taxes, assessments and governmental charges which during said term shall accrue or become due upon the demised premises, or any part thereof, under any law of the United States, or of the State of California, or any county, city, town, township or other municipal subdivision therein, or of any other lawful authority.

(c) All rentals and other sums which the lessor shall become liable to pay during said term under any lease or agreement existing on the date the demised railroad shall be turned over to the lessee for operation, relating to the use of any facility or appurtenance of the demised railroad, or under any lease or agreement which, during said term, may be made by the lessor with the written consent of the lessee.

(d) All expenses necessarily incurred by the lessor for the purpose of maintaining and perpetuating its organization.

Due apportionment shall be made between the parties in respect of any taxes, rentals or other sums payable under this article in respect of any period of time not wholly included within said term.

No protestants appeared at the hearing.

I believe that this application should be granted and herewith submit the following form of order:

#### ORDER.

A public hearing having been held in the above application and the Commission being of the opinion that applicants should be authorized to execute a lease substantially in the same form as the lease filed in this proceeding and that this application should be granted; therefore,

*It is hereby ordered*, that the Santa Fe and Los Angeles Harbor Railway Company be and it is hereby authorized to lease to The Atchison, Topeka and Santa Fe Railway Company the properties and line of railway referred to in this application, such lease to be pursuant to the terms and conditions of the lease filed in this proceeding and marked "Exhibit A."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of August, 1923.

## DECISION No. 12552.

IN THE MATTER OF THE APPLICATION OF SIERRA TRANSIT COMPANY, A CORPORATION, TO ISSUE STOCK, AND THE APPLICATION OF C. R. SPICKARD AND C. J. McFALL, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF SACRAMENTO-AUBURN-NEVADA CITY STAGE COMPANY, TO TRANSFER, AND SIERRA TRANSIT COMPANY TO ACQUIRE, OPERATIVE RIGHTS AND OTHER PROPERTIES.

Application No. 9224.

Decided August 27, 1923.

*Larry A. Encell*, for Applicant.

*BEAVEY*, Commissioner.

## OPINION.

In this application the Railroad Commission is asked to make an order authorizing C. R. Spickard and C. J. McFall to transfer their operative rights and properties to Sierra Transit Company, and Sierra Transit Company to acquire such properties and in payment therefor to issue \$75,000 of its capital stock.

The record shows that C. R. Spickard and C. J. McFall, doing business under the firm name and style of Sacramento-Auburn-Nevada City Stage Company, are engaged in operating auto stages for the transportation of passengers and express between Sacramento and Nevada City and intermediate points, operating under certificates of public convenience and necessity granted by the Commission by Decision No. 7747, dated June 19, 1920, in Application No. 5298; Decision No. 7795, dated June 24, 1920, in Application No. 5162, and Decision No. 10750, dated July 21, 1922, in Application No. 7659. The revenues of this business for the year 1922 are reported as \$46,103.52, operating expenses as \$41,201.74, and net profit for the year as \$4,901.78. For the three months ended March 31, 1923, revenues are reported as \$13,490.10, expenses as \$9,548.60, and net profit for the period as \$3,941.50.

Believing that the business can be operated more efficiently by a corporation than by a copartnership, C. R. Spickard and C. J. McFall have caused the incorporation of the Sierra Transit Company for the purpose of acquiring and operating their properties and business. The articles of incorporation of the Sierra Transit Company, which are on file in this proceeding, show that it was organized on or about April 2, 1923, with an authorized capital stock of \$75,000, divided into 750 shares of the par value of \$100 each, all shares being common. It is proposed to deliver the entire authorized amount of stock to the copartners in payment for their operative rights and all of their properties, both tangible and intangible, used in the conduct of the

auto stage business. However, four of such shares will be transferred to directors for qualifying purposes.

The following balance sheet, which is as of August 15, 1923, shows the properties to be transferred as follows:

<i>Assets.</i>	
Cash on hand.....	\$1,242 91
Cash in bank.....	5,710 26
Tools and supplies.....	750 00
Office equipment.....	331 35
Office supplies and tickets.....	150 00
Prepaid insurance.....	389 39
Prepaid life insurance (on partners).....	1,500 00
Guarantee on lease.....	1,428 57
Motor carrier terminals stock.....	300 00
Interest receivable.....	54 02
Notes receivable.....	3,010 00
Operative rights (actual cost) between Auburn and Nevada City.....	950 00
Two memberships in Star Auto Association exchange for operative rights between Sacramento and Auburn.....	1,428 56
Value of stages—original cost:	
No. 3—20-passenger White—1922.....	8,000 00
No. 4—24-passenger White—1922.....	9,500 00
No. 5—30-passenger White—1922.....	10,000 00
No. 6—11-passenger Dodge-Graham—1923.....	3,500 00
No. 7—30-passenger White—1923.....	10,500 00
7-passenger Dodge—1920.....	1,650 00
7-passenger Dodge—1923.....	1,575 00
5-passenger Dodge (business sedan).....	1,550 00
No. 8—30-passenger White (under construction).....	10,500 00
	<hr/>
	\$74,020 06
<i>Liabilities.</i>	
None (proprietors' accounts—net worth).....	\$74,020 06

It appears that no payments have been made on the car under construction. Inasmuch as no liabilities are reported, it is assumed that the partnership will pay for such car. The order will provide that all of the above assets be transferred to the corporation free and clear of all incumbrances and that the corporation assume no indebtedness due on any of the equipment.

The testimony of C. R. Spickard shows that the values appearing in the foregoing balance sheet reflect the original cost of the auto stages. His testimony further shows that all of the cash and current assets will be transferred to the corporation in addition to the physical property. It is of record that the copartners at present each own a one-half interest in the business. It is their intention to issue the stock herein applied for to themselves in the same proportion. There will be no change in the management or operation of the business as a result of this proposed transfer.

I believe that the application should be granted as herein provided and herewith submit the following form of order:



## ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and properties and the issue of stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that C. R. Spickard and C. J. McFall, doing business under the firm name and style of the Sacramento-Auburn-Nevada City Stage Company, be and they are hereby authorized to transfer their operative rights and properties referred to in the foregoing opinion and in this application to Sierra Transit Company, a corporation, and Sierra Transit Company, a corporation, be and it is hereby authorized to acquire such properties and in full payment therefor to issue \$75,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

(1) C. R. Spickard and C. J. McFall shall cancel immediately all time schedules, tariffs, rates and classifications at present on file with the Railroad Commission, and Sierra Transit Company shall file immediately new time schedules, tariffs, rates and classifications, or adopt as its own the time schedules, tariffs, rates and classifications heretofore filed with this Commission by C. R. Spickard and C. J. McFall, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with this Commission, such cancellation and filing to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

(2) The rights and privileges, the transfer of which is herewith authorized, may not again be transferred, assigned, leased, sold or hypothecated, or operations thereunder discontinued, unless the written consent of the Railroad Commission to such transfer, assignment, lease, sale, hypothecation or discontinuance shall have first been secured.

(3) No vehicle may be operated by Sierra Transit Company under the authority contained in this decision unless such vehicle is owned by said company or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

(4) The price at which Sierra Transit Company is herein authorized to acquire properties shall never be urged before this Commission, or other court or public body having jurisdiction, as a measure of value of said properties, for the purpose of fixing rates, or for any purpose other than the transfer herein authorized.

(5) The transfer of the operative rights herein authorized and the required cancellations and filing of tariffs and schedules shall be made not later than sixty days from the date of the order in this proceeding, unless the time for effecting the authorized transfer and the cancellation

and filing of tariffs, shall be extended by the further order of this Commission.

(6) The properties herein authorized to be transferred, shall be transferred to Sierra Transit Company free and clear of all encumbrances, and no payments that may become due on any equipment referred to in the foregoing opinion, shall be assumed by said company.

(7) Within thirty days after the issue and delivery of the stock herein authorized, Sierra Transit Company shall file with the Railroad Commission a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein granted to transfer rights and properties and to issue stock will become effective upon the date hereof and will continue in force for a period of sixty days after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of August, 1923.

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DECISION No. 12554.

J. A. VINK

*vs.*

CALIFORNIA SOUTHERN RAILWAY COMPANY, A CORPORATION;  
ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A  
CORPORATION; LOS ANGELES AND SALT LAKE RAILROAD  
COMPANY, A CORPORATION; PACIFIC ELECTRIC RAILWAY  
COMPANY, A CORPORATION.

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Case No. 1895.

Decided August 27, 1923.

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*F. W. Turcotte and B. H. Carmichael*, for Complainant,  
*M. W. Reed and B. Levy*, for Atchison, Topeka and Santa Fe Railway Company,  
Defendant.  
*E. E. Bennett and J. P. Quigley*, for Los Angeles and Salt Lake Railroad Com-  
pany, Defendant,  
*R. E. Wedekind*, for Pacific Electric Railway Company, Defendant.

BY THE COMMISSION.

OPINION.

The complaint in this proceeding was filed March 26, 1923, by J. A. Vink, who is engaged in the business of buying and selling live stock; also stock feed, cottonseed and articles used in the preparation of stock feed.

The allegations are that the rates charged by the defendants for the transportation of three carloads of cottonseed from Blythe to Hynes

and Artesia were excessive, unjust and unreasonable and in violation of section 13 of the Public Utilities Act. Reparation is requested.

A public hearing was held at Los Angeles on June 21, 1923, before Examiner Geary, and the matter is now ready for a decision.

The shipments involved moved during the month of March, 1921, at which time the rate was 80½ cents per 100 pounds from Blythe to Hynes, and 77½ cents from Blythe to Artesia. The points of origin are located on the rails of the California Southern Railroad Company and on the movements from Blythe to Hynes the tonnage passes over the California Southern; Atchison, Topeka and Santa Fe, and Los Angeles and Salt Lake. To Artesia the movement is over the California Southern; Atchison, Topeka and Santa Fe, and the Pacific Electric.

Since these shipments moved the rates on cottonseed have materially reduced. On May 16, 1921, the rate from Blythe to Hynes was 80½ cents; on May 17, 1921, 62½ cents; on February 6, 1922, 57½ cents, and on May 13, 1922, 49½ cents. On May 16, 1921, the rate to Artesia was 7½ cents; on May 17, 1921, 59½ cents and on July 1, 1922, 53½ cents. The reductions, effective May 17, 1921, were by order of this Commission in Case No. 1512. Decision No. 8852, *Blythe Chamber of Commerce et al. vs. California Southern Railroad Company et al.*, decided April 12, 1921, 19, C. R. C. 681.

In the case referred to the Commission had before it all of the class and commodity rates of the California Southern Railroad, as well as certain joint, class and commodity rates of California Southern and the Atchison, Topeka and Santa Fe, and since the decision in that case goes into the details of the rates and financial conditions of the California Southern Railroad it will not be necessary to review them in his decision. The California Southern at that time was operating at a very heavy loss and shortly after the Commission rendered its decision the property was leased to The Atchison, Topeka and Santa Fe Railway Company and is being operated by that company.

The California Southern Railroad Company is now a nonoperating organization and was not represented by counsel in the instant proceeding.

The complainants presented a number of exhibits intended to show that the rates assailed are materially higher than those in effect between other points in California and between points outside of California for equal distances. However, the exhibits dealt principally with rates involving movements via one line of railroad, whereas in this situation the tonnage moved over three lines.

Defendants presented similar exhibits intended to show that the rates now in effect compare favorably with the rates on the same commodity from other shipping points.

In the former proceeding we prescribed 50 cents per 100 pounds as a reasonable rate to Los Angeles in place of 68 cents, a reduction of 18 cents, or  $27\frac{1}{2}$  per cent. Since the date of this order, May 17, 1921, further reductions have been voluntarily published by the carriers until the rate to Hynes became  $49\frac{1}{2}$  cents instead of  $80\frac{1}{2}$  cents, a total reduction of 31 cents, or  $38\frac{1}{2}$  per cent; to Artesia the rate became  $53\frac{1}{2}$  cents instead of  $77\frac{1}{2}$  cents, a total reduction of 24 cents, or 31 per cent.

No shipments of cottonseed other than the three cars involved in this proceeding have moved to Hynes or Artesia, notwithstanding rate reductions by more than 30 per cent. The evidence would indicate that there are no prospects of any future movements and that this proceeding was for the purpose of securing reparation award.

At the time these shipments moved we had under consideration Case No. 1512, *supra*, which involved an adjustment of these same rates and claims for reparation. In that proceeding we said:

Reparation was sought by the complaint, but no testimony in support of the same was offered. This Commission has held that in a general readjustment of all rates reparation can not be granted without creating discrimination and as there is here no basis for an award, the same is denied.

In view of the reductions made by our order in Case No. 1512, and of the voluntary reductions made by defendants, we do not find the present rates either excessive or unreasonable, nor do we find that complainant was entitled to reparation on account of the rates charged under the conditions then existing.

Reparation is denied.

The complaint will be dismissed.

#### ORDER.

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

*It is ordered*, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of August, 1923.

## DECISION No. 12555.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL SECURITY.

Application No. 9312.

Decided August 29, 1923.

*Earl E. Moss*, for Applicant.

BY THE COMMISSION.

## OPINION.

In this application Ojai Power Company asks permission to issue and sell, at par, 200 shares of its common capital stock of the aggregate par value of \$20,000, and to use the proceeds to finance the cost of additions, betterments and improvements to its plants and properties.

A public hearing was held before Examiner Williams in Los Angeles on August 25, 1923.

Ojai Power Company is engaged in the business of distributing electric energy for lighting, heating and power purposes in Ojai Valley, Ventura County, and of supplying water for domestic uses in the city of Ojai, serving about 370 electric consumers and 200 water consumers. The company reports gross revenues for the year ended December 31, 1921, as \$33,117.26; for the year ended December 31, 1923, as \$34,263.87, and for the seven months ended July 31, 1923, as \$22,085.28. After paying operating expenses, including taxes and depreciation, and other deductions from income, it reports net profit for the year 1921 as \$8,331.99; for the year 1922 as \$7,761.51, and for the seven months ended July 31, 1923, as \$5,264.32. During this time the company has paid dividends on its outstanding stock at the rate of 8 per cent per annum.

The company's assets and liabilities, as of July 31, 1923, are reported as follows:

Fixed capital:		<i>Assets.</i>	
Electric	-----	\$60,191	16
Water	-----	24,733	54
Total fixed capital	-----		\$84,924 70
Current assets:			
Cash	-----	\$5,070	13
Special deposits	-----	4,500	00
Accounts receivable	-----	860	76
Materials and supplies	-----	48	16
Total current assets	-----		10,479 05
Total assets	-----		\$95,403 75

Capital stock:	Liabilities.	
Common -----		\$77,200 00
Stock subscriptions -----		200 00
		<hr/> \$77,400 00
Current liabilities:		
Consumers' deposits -----	\$1,962 24	
Taxes accrued -----	1,220 71	
Accounts payable -----	2,960 81	
Miscellaneous -----	249 12	
	<hr/>	
Total current liabilities -----		6,392 88
Reserve for accrued depreciation:		
Electric -----	\$4,069 02	
Water -----	350 52	
	<hr/>	
Total reserves -----		4,419 54
Corporate surplus -----		7,191 33
		<hr/>
Total liabilities -----		\$95,403 75

Applicant reports that it is necessary to issue the \$20,000 of stock, for which application is herein made, to obtain \$7,006 to pay for reconstruction work, \$10,494 to pay for additions and betterments, and \$2,500 to provide for materials and supplies. It appears from the testimony herein that applicant must expend \$8,814 to reconstruct a portion of its system to provide increased capacity to comply with the Commission's General Order No. 64, which refers to overhead line construction. The property to be displaced through such reconstruction work is reported to have cost originally \$1,808, leaving net construction expenditures chargeable to capital account of \$7,006.

It is further reported that the growth of business necessitates the expenditure of \$10,494 for extensions, additions to and betterments of its electric properties, all of which, together with the expenditures made necessary by General Order No. 64, are described in detail in Exhibits "C" and "D," attached to the petition. The remaining \$2,500 to be received from the sale of the stock applicant asks permission to use to pay for materials and supplies.

We believe that the application should be granted, subject to the conditions of the following order:

#### ORDER.

Ojai Power Company having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the application should be granted as herein provided;

*It is hereby ordered*, that Ojai Power Company be and it is hereby authorized to issue and sell, at not less than par, \$20,000 of its common

capital stock and to use the proceeds to finance, in part, the cost of the extensions, additions, betterments and improvements referred to in the foregoing opinion and described in Exhibits "C" and "D" filed with his application, and to pay for materials and supplies.

The authority herein granted is subject to further conditions as follows:

(1) Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of his order. Such verified report shall also show all expenses incurred in connection with the sale of the stock and the numbers and names of accounts to which such expenses have been charged.

(2) The authority herein granted to issue stock will become effective upon the date hereof but will expire on June 30, 1924.

Dated at San Francisco, California, this twenty-ninth day of August, 1923.

#### DECISION No. 12556.

IN THE MATTER OF APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR PERMISSION TO ABANDON SERVICE OVER AND TO TAKE UP ITS TRACKS FROM ITS IMPERIAL AVENUE STREET RAILWAY LINE, FROM THIRTY-FOURTH STREET AND IMPERIAL AVENUE TO FORTIETH STREET AND IMPERIAL AVENUE, IN THE CITY OF SAN DIEGO, CALIFORNIA.

Application No. 9094.

Decided August 29, 1923.

*G. Dilworth*, for Applicant.

*J. Higgins*, City Attorney, by *Stanley T. Howe*, Deputy, for the City of San Diego.

BY THE COMMISSION.

#### OPINION.

San Diego Electric Railway Company, a corporation, herein petitions the Railroad Commission for an order authorizing the discontinuance of street railway service over the portion of its so-called Imperial avenue line from Thirty-fourth street to Fortieth street in the city of San Diego, and for the removal of its tracks therefrom.

A public hearing on the application was conducted by Examiner Landford at San Diego, the matter was duly submitted and is now ready for decision.

The line on Imperial avenue, herein proposed to be abandoned, is located on an unpaved street and is in poor physical condition. The electors of the city of San Diego, by an election held on March 20, 1923,

have determined to pave Imperial avenue and if operation of street cars is to be continued the line will require to be reconstructed at an expense of approximately \$75,000. The line serves a sparsely settled community and it is alleged that the traffic offering is not sufficient to justify the expenditure for reconstruction which is necessary by reason of the anticipated paving.

The city of San Diego, by Resolution No. 29172 of its common council adopted April 23, 1923, has determined that it is for the best interest of said city that a franchise be granted authorizing the construction of a street railway line from a connection with the present Woolman avenue line at Thirtieth street, thence along said Woolman avenue to Thirty-ninth street, thence northerly along Thirty-ninth street to the intersection of Thirty-ninth street and Imperial avenue. Applicant proposes immediately to construct the proposed line, upon the granting of the franchise therefor, and to operate same as an extension to its present so-called Woolman avenue line, thereby adequately serving patrons now using the portion of the Imperial avenue line herein proposed to be abandoned, the proposed new routing caring for such patrons and also for communities located southerly from and along Woolman avenue which are now not within a reasonable distance from streetcar service.

The original purpose of the construction of the Imperial avenue line from Thirty-second street to its terminus at Imperial avenue and Fortieth street was to care for traffic to and from the cemeteries. This extension was constructed in 1909 and since that time conditions have changed and persons desiring to visit the cemeteries are using other methods of transportation. Such as desire street car service will be accommodated by the use of the proposed Woolman avenue line extension, which will terminate at the intersection of Thirty-ninth street and Imperial avenue, Imperial avenue being the southerly boundary of the cemeteries.

At the public hearing there was no protest against the granting of the application although due notice had been given all interested persons by advertisement and by posting notice of the hearing in the cars operated on the Imperial avenue line.

We are of the opinion that the granting of the application will enable applicant to more satisfactorily serve patrons and enable transportation service to be available for residents of developing territory now beyond reasonable access to the street car lines on Woolman or Imperial avenues.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised;



*It is hereby ordered*, that applicant, San Diego Electric Railway Company, be and it hereby is authorized to suspend operation of the portion of its Imperial avenue street car line from the intersection of Thirty-fourth street and Imperial avenue, upon and along Imperial avenue to the terminus at the intersection of Imperial avenue and Fortieth street, all in the city of San Diego, and to remove its tracks, wires and poles therefrom.

This order shall be effective when applicant will have placed in operation motor coach service on Imperial avenue between Thirty-fourth and Fortieth streets, such motor coach service to be operated during the construction of the extension of the Woolman avenue line from the intersection of Woolman avenue and Thirtieth street, thence along and upon Woolman avenue to its intersection with Thirty-ninth street, thence along and upon Thirty-ninth street to the terminus at the intersection of Thirty-ninth street and Imperial avenue.

Dated at San Francisco, California, this twenty-ninth day of August, 1923.

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DECISION No. 12565.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

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Application No. 9111.

Decided September 1, 1923.

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Southern California Gas Company in a supplemental petition filed in the above entitled matter on August 27, 1923, asks the Railroad Commission to make an order authorizing it to use the proceeds from the sale of \$238,647.90 of the bonds authorized by Decision No. 12215, dated June 15, 1923, to finance the cost of extensions, additions and betterments to its plants and properties made subsequent to June 30, 1923.

By Decision No. 12215, the Commission authorized Southern California Gas Company to issue and sell, at not less than 94.75 per cent of face value plus accrued interest, \$2,500,000 of its first and refunding mortgage Series "C" 6 per cent bonds due June 1, 1958. The order of the Commission, as amended from time to time, has authorized the company to use the proceeds from the sale of \$1,380,284.85 of the bonds to finance in part the cost of construction expenditures heretofore reported to the Commission, but provides that the proceeds from the remainder of the bonds be deposited with the trustee and expended

only for such purposes as the Commission might authorize in supplemental order.

Applicant now reports that during the month of July, 1923, it expended for additions and betterments the sum of \$386,532.47, of which \$304,197.20, according to applicant, is properly chargeable to capital account. In addition, it reports that during August it has expended \$14,000 in constructing its 10,000,000 cubic foot gas holder, which amount, added to the \$304,197.20, makes a total of \$318,197.20. In making this supplemental petition, applicant asks permission to use proceeds from the sale of bonds in a face amount equal to 75 per cent of the cost of these reported expenditures of \$318,197.20.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore,

*It is hereby ordered*, that Southern California Gas Company be and it is hereby authorized to use on or after the date hereof the proceeds from the sale of \$238,647.90 of the bonds authorized by Decision No. 12215, dated June 15, 1923, to finance in part such portion of the cost of extensions, additions and betterments referred to herein as is properly chargeable to capital account as defined by the uniform system of accounts prescribed by this Commission.

*It is hereby further ordered*, that the order in Decision No. 12215, dated June 15, 1923, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this first day of September, 1923.

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DECISION No. 12576.

IN THE MATTER OF THE APPLICATION OF J. O. LOUVE FOR PERMISSION TO FURNISH WATER FOR DOMESTIC PURPOSES.

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Application No. 9239.

Decided September 4, 1923.

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*J. O. Louve, in propria persona.*

BY THE COMMISSION.

OPINION.

In this proceeding J. O. Louve requests authority to operate a public utility water plant, and to distribute and sell water for domestic and irrigation purposes to some fifty-two lots in the subdivision known as the Louve and Kane Tract near Downey, Los Angeles County.

A public hearing in this matter was held by Examiner Williams at Los Angeles, all interested parties having been duly notified and given an opportunity to appear and be heard.

The testimony shows that applicant has installed a water system to aid in the sale of lots in the above described tract. The system consists

# CALIFORNIA RAILROAD COMMISSION DECISIONS.

well, pump, a small tank of 2000 gallons capacity on a tower, and distribution pipes of 3½-inch and 2-inch diameter. The evidence also shows that there is no utility in the vicinity from which water service can be had, and no one appeared to oppose the granting of the certificate.

The rates as set forth in the application are reasonable as compared with the rates of other utilities operating in the vicinity. Applicant at the hearing requested that the application be amended to include an irrigation rate of \$1 per hour flow of pump and \$0.40 per hour service through a 2-inch connection. Both of these rates are reasonable and should be included in the rate schedule set out in the following order.

A careful consideration of the evidence indicates that public convenience will best be served by the operation of the system, and that the application should be granted.

## ORDER.

J. O. Louve having made application as entitled above, a public hearing having been held thereon, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that J. O. Louve operate a public utility water system for the purpose of supplying water for domestic and irrigation use on the tract known as Louve and Kane Tract, near Downey, in Los Angeles County; and it is hereby ordered, that J. O. Louve be and he is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be effective for all water delivered to consumers subsequent to October 1, 1923.

### Monthly Flat Rate.

domestic purposes----- \$1 50

### Monthly Irrigation Rates.

flow of pump, estimated at 100 miner's inches, per hour----- \$1 00  
 service through a 2-inch connection off the main distribution line, per hour-- 40

It is hereby further ordered, that J. O. Louve be and he is hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations to govern relations with his customers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this fourth day of September, 1923.

DECISION No. 12580.  
ROBERT H. DALY ET AL.

*vs.*

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 1843.  
Decided September 7, 1923.

**RATES—STEAM HEATING SERVICE—FEDERAL INCOME TAX.**—Rates heretofore collected by Pacific Gas and Electric Company held to be excessive and a reduction of approximately 15 per cent is ordered for consumers in San Francisco, and slightly less in Oakland, where the rates were correspondingly lower. In view of the fact that rates collected for this service up to 1920 were fixed by contract solely, the Commission can not give cognizance to any deficit claimed in operation prior to the time when the Commission assumed jurisdiction over rates. Present or future consumers can not be expected to make up the deficit of past operations, when the evidence shows that a profit has been realized during 1921 and 1922. Federal income tax is included as a legitimate operating expense, in conformity with the ruling of the United States Supreme Court (*Georgia Railway and Power Company vs. Railroad Commission of Georgia*, decided June 11, 1923).

**COST OF SERVICE—FLUCTUATION IN PRICE OF FUEL OIL.**—Rates are made subject to fluctuation in the price of fuel oil, which is found to have an important bearing on the cost of the service, on a basis of three cents per 1000 pounds of steam for each ten cents per barrel increase or decrease, respectively, in the cost of fuel oil.

*Albert I. Loeb*, for Complainants.  
*C. P. Cutten*, for Defendant.

*MARTIN*, Commissioner.

**OPINION.**

Robert H. Daly and other consumers of steam heating service from the system of Pacific Gas and Electric Company, hereinafter referred to as defendant, allege that since the rates for this service were last passed on by this Commission there has been a material reduction in the price of fuel oil and ask that an investigation be made and rates fixed that will be just and reasonable under the conditions now existing.

Public hearings were held in San Francisco at which the complainants testified on the market price of fuel oil and on the cost of operation of individual heating plants, and at which representatives of the company and of the Railroad Commission presented evidence as to the value of the property, its operating expenses and the revenues received.

Pacific Gas and Electric Company supplies steam heating service in limited portions of San Francisco and Oakland. In San Francisco it owns one boiler plant and operates two others under lease, the total capacity being approximately 3100 boiler horsepower. Steam is supplied to some 460 consumers through approximately seven and one-half miles of main. In Oakland steam is taken from the boiler plant at the electric generating station and distributed through about three miles of main to approximately eighty consumers. In both San Francisco

and Oakland this business is conducted in competition with the service of Great Western Power Company of California. A similar complaint has been filed with this Commission against the rates of the latter company, hearings in which paralleled those in the present proceeding.

The distribution of steam for heating purposes was carried on in San Francisco and Oakland for a number of years as an adjunct to the more important electrical business and until the amendment of the Public Utilities Act in 1919 was not under public regulation. Rates for electricity being of necessity uniform and nondiscriminatory, the ability to negotiate prices for nonutility steam service was of great convenience in securing and holding electric business under competitive conditions.

Shortly after the distribution of steam was declared to be a public utility service, Pacific Gas and Electric Company applied to this Commission for authority to eliminate deviations in rates and place all consumers upon its standard schedules. As is shown by the figures in this opinion the business was operating at a loss at that time and the Commission accordingly permitted the removal of deviations by placing consumers upon filed schedules (Decision No. 7576, May 17, 1920, 3 C. R. C. 201). These schedules were the ones in effect at the time the service came under the jurisdiction of the Commission and are still in force. Since their establishment the prices of fuel oil and other supplies used in the operation of the system have very materially increased and have again somewhat decreased, particularly as regards fuel oil.

In the present case defendant has presented two sets of figures bearing on the value of its property used in steam heating service. In one set of figures, which will be referred to as the "five year average," an inventory of the property as of December 31, 1919, has been priced at the average prices for the preceding five years, and to the figures so obtained have been added subsequent additions and betterments at actual cost. The other set of figures, referred to as "historical," is based upon the same inventory but instead of using prices for the limited five year period the prices in effect during the entire period of construction of the plant have been used, giving due regard to relative prices and expenditures in each year. As in the case of the five year average appraisal, additions and betterments since December 31, 1919, have been added at book cost. A comparison of the two appraisals of the property of December 31, 1922, is shown in Table 1.

TABLE 1.

*Property of December 31, 1922.*

Steam Sales Department—Pacific Gas and Electric Company.

(From Defendant's Exhibit 1.)

	At five year average prices	At historical prices
Production .....	\$211,917	\$108,262
Distribution .....	779,491	470,774
General .....	35,303	26,828
<b>Totals</b> .....	<b>\$1,026,711</b>	<b>\$607,864</b>

In a recent decision involving the electric rates of this company (Decision No. 11457, December 30, 1922) these two bases of valuation were carefully considered and discussed at length. In that decision the Commission adopted for rate fixing purposes the reasonable historical cost of the electric property as the controlling factor and for the reasons expressed therein the same basis will now be adopted for the steam heating properties. In connection with the present case, one of the Commission's engineers made a check of the inventory and historical appraisal and his report shows that both were found to be substantially correct and that the result may be accepted as reasonable.

In connection with a consideration of rates and operations subsequent to December 31, 1922, defendant urges that consideration should be given to the expenditure of relatively large amounts of money for the following items:

Expenditures on work in progress on December 31, 1922 .....	\$46,930 00
Estimated additions to mains, services and other facilities during the year 1923 .....	60,000 00
Estimated cost of new boiler plant in San Francisco to be placed in operation October 1, 1923 .....	207,000 00

For comparison with these figures we show the additions and betterments during recent years as follows:

1920 .....	\$7,000 00
1921 .....	10,000 00
1922 .....	20,000 00

It is clearly evident that unusually large expenditures are contemplated for the year 1923.

Any utility must maintain itself in a position to furnish service when called upon to do so and must therefore keep its plant constructed in advance of the requirements which are made upon it. Such construction must be carried on with a view to future requirements and in a manner to obtain the greatest economy of construction and operation. In many cases this calls for the construction of units larger than are immediately required and results in periodic increases in capital that are not immediately reflected in increased revenues. On the other

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and revenues will continue to increase at a comparatively uniform rate during years when much smaller capital expenditures are made. It would be as unfair to the utility to base rates upon the conditions existing just before the installation of a large unit of plant as it would to consumers to base rates upon conditions existing immediately after the installation of such a unit. Fairness demands that in such cases attention be given not only to the relation of revenue and capital at the precise time of the inquiry but also to the trend of this relation over a cycle of growth. After full consideration we find that the rate to be compared with estimated revenues for the year 1923 should include the sum of \$165,000 as the proper proportion of the estimated capital expenditures to be made during the year.

Additional allowances will be made for material and supplies kept on hand for operating purposes and for working cash capital. Table 2 shows a summary of these items together with the physical property as of December 31, 1922, giving a reasonable rate base for the year 1923 of \$826,464.

TABLE 2.

Pacific Gas and Electric Company—Steam Sales Department.

## Reasonable Rate Base—Year 1923.

Physical property—December 31, 1922-----	\$607,864 00
Allowances for additions and betterments, 1923-----	165,000 00
Materials and supplies-----	18,500 00
Working cash capital-----	37,100 00
<b>Total -----</b>	<b>\$828,464 00</b>

Defendant presented figures of revenue and operating expenses for the years since 1912, the figures for the past three years and the estimates for 1923 being in considerable detail. These figures were the subject of an investigation by the Commission's engineer who presented an exhibit showing the result of certain slight modifications in allowances for depreciation annuity and in estimates for 1923. Table 3 taken from this exhibit.

TABLE 3.

## Operating Revenues and Expenses.

Pacific Gas and Electric Company—Steam Sales Department.

(From Commission's Exhibit 1.)

Item	1920	1921	Year 1922	1923
Gross revenue -----	\$354,493 00	\$393,324 00	\$433,775 00	\$474,327 00
Operating expenses:				
Fuel oil -----	240,767 00	233,264 00	191,708 00	162,350 00
Other operating expenses----	84,069 00	81,367 00	83,787 00	93,900 00
Maintenance -----	28,869 00	36,664 00	30,932 00	34,500 00
Taxes -----	21,198 00	5,312 00	13,916 00	18,262 00
General -----	11,591 00	17,032 00	18,313 00	18,750 00
<b>Totals -----</b>	<b>\$386,514 00</b>	<b>\$373,639 00</b>	<b>\$338,656 00</b>	<b>\$327,762 00</b>

Net for depreciation and return	*\$32,021 00	\$19,685 00	\$95,119 00	\$146,565 00
Depreciation -----	15,583 00	15,878 00	16,543 00	20,735 00
Net for return -----	*\$47,604 00	\$3,807 00	\$78,576 00	\$125,830 00

\*Deficit. \*\*Estimated present rates.

Comparing the estimated net revenue of \$125,830 available for return during the year 1923 with the rate base of \$828,464, previously discussed, it is seen that the present rates and the reduced level of operating costs would result in a return of approximately 15 per cent. In this connection defendant urges that consideration be given to losses sustained in this department of its business during past years. As shown in Table 4, steam heating operations were carried on at a net operating loss from 1912 to 1920. During 1921 and 1922 a profit has been realized but the total operating deficit from January 1, 1912, to December 31, 1922, is claimed to be \$611,668.

TABLE 4.  
*Operating Deficits.*

Pacific Gas and Electric Company—Steam Sales Department.

(From Defendant's Exhibit 1.)

Year	Revenue	Direct operating expense	General expense	Net operating revenue
1912 -----	\$88,455 00	\$188,952 00	\$1,720 00	*\$102,217 00
1913 -----	131,758 00	241,432 00	4,187 00	*113,861 00
1914 -----	171,501 00	235,657 00	8,082 00	*72,238 00
1915 -----	198,550 00	248,525 00	10,868 00	*60,843 00
1916 -----	206,502 00	263,866 00	13,670 00	*71,034 00
1917 -----	214,993 00	320,956 00	17,659 00	*123,622 00
1918 -----	243,152 00	300,429 00	23,323 00	*80,600 00
1919 -----	317,396 00	361,149 00	26,283 00	*70,036 00
1920 -----	354,493 00	353,725 00	32,789 00	*32,021 00
1921 -----	393,324 00	351,295 00	22,344 00	19,685 00
1922 -----	433,775 00	306,427 00	32,229 00	95,119 00
Totals -----	\$2,753,899 00	\$3,172,413 00	\$193,154 00	*\$611,668 00

\*Deficit.

It must be remembered that until 1920 the prices charged by defendant for this commodity were fixed entirely by negotiations between it and the purchasers and it is, therefore, to be presumed that they were within its control. It is also to be remembered that until 1920 the steam business was operated largely as an adjunct to the distribution of electricity and that many special rates for steam were made in order to secure customers for the electric department. In spite of a level of costs higher than during the earlier years an operating profit was shown in 1921 and a full return earned in 1922 when special consumers were no longer being favored by deviation rates, although the rates under standard schedules had not been increased.

Further examination shows that profits since the reduction in the price of fuel oil have more than wiped out the operating deficit for the



ear 1920 and that the average return for the past three years has at least been reasonable.

Present and future consumers are under no obligation to make up past deficits incurred in the manner of those now in question.

This company is a large one with diversified operations covering an extensive territory. The steam business by itself is relatively small but as one branch of the operations of the larger utility, it shares the benefits of size and stability, such as purchasing power and credit. Under the recent decision fixing electric rates, already referred to, a return of 8 per cent on the rate base for the electric properties, was found reasonable, but the federal income tax of  $12\frac{1}{2}$  per cent of net corporate income was excluded from operating expenses. The United States Supreme Court has since definitely ruled that this tax should be included as an operating expense. (*Georgia Railway and Power Company vs. Railroad Commission of Georgia*, decided June 11, 1923). In the same decision the court also points out in the following language the close relationship between the inclusion and exclusion of this tax from operating expenses and the rate of return which may be deemed fair and reasonable:

It must be borne in mind, as pointed out in *Galveston Electric Company vs. Galveston*, *supra*, that since dividends from the corporation are not included in the come on which the normal federal tax is payable by stockholders, the tax exemption is, in effect, an additional return on the investment.

As was indicated in the decision in the electric rate proceeding Decision No. 11457, dated December 30, 1922) a return of 8 per cent from which this tax must be paid was equivalent to a net return after payment of the tax of 7.6 per cent. Such a return was held to be sufficient to attract the new capital that must be continuously invested in the system is to keep pace with the demands of the consuming public. In keeping with the decision of the Supreme Court, federal income tax has been considered herein as an operating expense and in harmony with the electric rate decision a net return after the payment of this tax of 7.6 per cent on the estimated historical cost of the property is found to be reasonable.

The existing rates in Oakland are approximately one-tenth lower than those in San Francisco, a condition which does not appear to be justified by the detailed figures of property values and operating results in the two systems. In revising rates to effect the proper reduction in gross revenue this differential will be eliminated. The rates provided in the order accompanying this opinion will result in a reduction of something less than 15 per cent in San Francisco, and a much smaller reduction in Oakland.

In this case complainants have pointed out the fluctuation in the cost of service with variation in the price of fuel oil and the suggestion has

been made that the rate charged the consumer should automatically reflect such variations.

A study of defendant's operations in this department shows that one of the most important single items of expense and the one which in recent years has been subject to the greatest fluctuation is the cost of fuel oil. This same condition has its effect in the cost of production of artificial gas, and for a year or two the rates of a number of gas utilities have included a provision for the adjustment of the rate to the consumer with the variation in the market price of fuel oil. This provision has worked out in a highly satisfactory manner and will now be adopted in the rates to be fixed for steam heating service.

I recommend the following form of order:

#### ORDER.

Complaint having been made to the Railroad Commission regarding the rates and charges of Pacific Gas and Electric Company for steam heating service, public hearings having been held and the matter being submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the rates and charges of Pacific Gas and Electric Company for steam heating service are unjust, unreasonable and discriminatory in so far as they differ from the rates and charges hereinafter set forth, which rates and charges are hereby found to be just and reasonable.

Basing its order on the foregoing findings of fact and on the findings of fact in the opinion preceding this order;

*It is hereby ordered, that*

(1) Effective with bills based on regular monthly meter readings taken on and after October 1, 1923, Pacific Gas and Electric Company shall charge and collect for steam heating service the following schedule of rates:

#### Schedule S-1.

##### *Character of Service.*

Steam will be supplied under this schedule for heating service.

##### *Territory.*

This rate applies in the city and county of San Francisco and in the city of Oakland, Alameda County.

##### *Rate.*

Based upon the monthly consumption per meter:

For the first 20,000 pounds.....	\$1 25 per thousand pounds
For the next 25,000 pounds.....	1 05 per thousand pounds
For the next 35,000 pounds.....	95 per thousand pounds
For the next 150,000 pounds.....	85 per thousand pounds
For the next 170,000 pounds.....	75 per thousand pounds
For all over 400,000 pounds.....	65 per thousand pounds

The above rates are subject to increase or decrease on the basis of three cents per one thousand pounds for each ten cents per barrel increase or decrease, respectively, in the cost of oil above or below the price paid for oil effective on

CALIFORNIA RAILROAD COMMISSION DECISIONS.

st 1, 1923, upon approval of the Railroad Commission of the State of California. Change in rate for steam to be to the nearest one cent.

*um Charge.*

e dollar per month per one hundred square feet of direct radiation but not less than \$7.50.

*al Conditions.*

) Measurement of service.

ic consumption of steam will normally be measured by condensameters. In cases where the condensation can not be measured the rate will be based upon the estimated consumption.

) In case of a change in the price paid for oil, Pacific Gas and Electric Company shall file within ten days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of this Commission in this proceeding charge the increased or reduced rates as determined under the schedule herein set forth.

) Pacific Gas and Electric Company shall file with this Commission before October 1, 1923, the schedules of rates and charges herein provided for.

) The effective date of this order shall be October 1, 1923.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

ated at San Francisco, California, this seventh day of September,

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DECISION No. 12581.

THE MATTER OF THE APPLICATION OF NOVATO UTILITIES COMPANY, A CORPORATION, FOR ORDER AUTHORIZING CHANGE IN RATES IN LIGHT, HEAT AND POWER SERVICE.

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Application No. 9255.

Decided September 7, 1923.

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Cain, for Novato Utilities Company.

TTLESEY, *Commissioner.*

OPINION.

In this application Novato Utilities Company requests the permission of this Commission to make certain changes in its rates for electric service. These changes, as a whole, will result in a reduction in the rates for service but because, under certain individual instances, rates will be raised, formal action of the Commission is necessary.

This company operates in the unincorporated town of Novato, Marin County, and immediate vicinity, supplying water, telephone and electric service. The electricity is purchased wholesale from the system of the

Pacific Gas and Electric Company and redistributed. Territory adjacent to that served by applicant, and on both sides of it, is served with electricity directly by Pacific Gas and Electric Company.

One of the reasons advanced by applicant for making the proposed change in electric rates is its desire to bring its rates more nearly in line with those of the larger company. The most important element of increase in the proposed modification of applicant's electric rates is in connection with the minimum charge for lighting service. The present rate is 12 cents per kilowatt hour with a minimum charge of \$1 per meter per month. The proposed rate allows the consumer 10 kilowatt hours for a minimum monthly charge of \$1.25, additional consumption being charged for at rates blocking down from 9 cents per kilowatt hour to 6 cents per kilowatt hour, except to consumers whose bills are less than \$1.25 per month the proposed rate is a reduction running as high as 30 per cent.

The territory served by applicant is not thickly settled, the consumers are somewhat scattered and the cost of maintaining service is, therefore, comparatively high. The proposed minimum charge and the number of kilowatt hours included therein is the same as was fixed by this Commission for similar and adjacent territory served by Pacific Gas and Electric Company after an extensive rate proceeding a few months ago. Applicant's request for this modification of its rates, therefore, appears entirely reasonable, particularly when it is remembered that the effect of the whole change will be an appreciable reduction.

Changes are proposed in the rates for cooking and heating and for power service, which are largely in the nature of reductions, the only exception being in connection with minimum charges. The same considerations apply to rates for this character of service as to the rates for lighting service and the proposed changes appear reasonable.

The Commission's engineering department suggests that in connection with the change in heating and cooking rates a new rate should be established for the supply of domestic service, including lighting, heating, cooking, etc., through one meter, such rates having proven satisfactory in other localities. The rate proposed by our engineering department is simply a combination of the rates proposed by applicant for lighting and for cooking service and will be incorporated in the order accompanying this opinion. Our engineering department has also gone over the other proposed rates and suggests certain minor changes and the addition of explanatory matter which will tend to eliminate discrimination in charges to installations of various sizes and make the interpretation of the schedules more definite.

recommend the following form of order:

**ORDER.**

Novato Utilities Company having applied to the Railroad Commission authority to modify its rates and charges for electric service, a public hearing having been held, the matter submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that rates and charges of Novato Utilities Company are unjust, unreasonable and discriminatory in so far as they differ from the rates and charges for electric service hereinafter set forth, which are declared to be just and reasonable.

Based on its order on the foregoing findings of fact and on the other findings of fact in the opinion which precedes this order;

*it is hereby ordered, that,*

1) Novato Utilities Company be and the same is hereby authorized to charge and collect for electric service rendered the schedule of rates shown in Exhibit "A" attached hereto and made a part hereof, effective for flat rate service rendered during the month of September, 1923, and for metered service with bills based upon regular monthly meter readings taken on and after September 20, 1923.

2) On or before September 15, 1923, Novato Utilities Company file with this Commission the rates set forth in Exhibit "A."

3) The effective date of this order shall be September 20, 1923.

The foregoing opinion and order are hereby approved and ordered to stand as the opinion and order of the Railroad Commission of the State of California.

Witness my hand and seal at San Francisco, California, this seventh day of September, 1923.

## EXHIBIT "A."

## SCHEDULE L-1.

*Lighting Service.*

Applicable throughout the territory served to general lighting service, including lamp socket appliances and single phase motors of two horsepower or less.

Rate.	Per kilowatt hour
For the first 10 kilowatt hours or less, per meter per month-----	\$1 25
For the next 20 kilowatt hours per meter per month-----	09
For the next 30 kilowatt hours per meter per month-----	08
For the next 40 kilowatt hours per meter per month-----	07
For all over 100 kilowatt hours per meter per month-----	06

## SCHEDULE L-2.

Applicable to street lighting service to Novato Lighting District.

*Rate.*

For service from half hour after sunset to midnight:

75-watt lamps -----	\$2 00 per month each
100-watt lamps -----	2 25 per month each

## SCHEDULE H-1.

*Heating and Cooking Service.*

Applicable throughout the territory served to domestic or commercial heating and cooking, brooder or incubator service when measured through a separate meter.

Rate.	Per kilowatt hour
For the first 100 kilowatt hours per meter per month-----	3.5 cents
For the next 200 kilowatt hours per meter per month-----	2.5 cents
For all over 300 kilowatt hours per meter per month-----	2.0 cents

*Minimum Charge.*

For the first 5 kilowatts or less of connected capacity, exclusive of instantaneous water heaters-----	\$3 00 per month
For each additional kilowatt of connected capacity, exclusive of instantaneous water heaters-----	50 per month
Instantaneous water heaters, per kilowatt-----	75 per month
Provided that the total minimum charge shall be not less than \$2 per month.	

*Special Conditions.*

Where the consumer installs a double throw switch, in a manner satisfactory to the company, so that any two or more appliances can not be connected at any one time, the connected capacity will be taken as the maximum load that may be connected at any one time.

## SCHEDULE H-2.

Applicable throughout the territory served to domestic, heating and cooking, brooder or incubator service, when combined on one meter with domestic lighting.

Rate.	Per kilowatt hour
For the first *30 kilowatt hours per meter per month-----	10.0 cents
For the next 100 kilowatt hours per meter per month-----	3.5 cents
For the next 200 kilowatt hours per meter per month-----	2.5 cents
For all over 330 kilowatt hours per meter per month-----	2.0 cents

*Minimum Charge.*

For the first 5 kilowatts or less of connected capacity, exclusive of instantaneous water heaters-----	\$3 00 per month
For each additional kilowatt of connected capacity, exclusive of instantaneous water heaters-----	50 per month
Instantaneous water heaters, per kilowatt-----	75 per month
Provided that the total minimum charge shall be not less than \$2 per month.	

\*For residences of nine rooms or more (exclusive of halls, bathrooms and cellars) the number of kilowatt hours in this block will be increased by five for each room in excess of eight.

*Special Conditions.*

1. This rate applies only to service to residences where there are installed and used cooking or heating devices (exclusive of lamp socket appliances) of a capacity of 2 kilowatts or more for residences of eight rooms or less and of 5 kilowatts or more for residences of nine rooms or more.

2. Lighting and lamp socket appliances will not be included in the connected capacity in arriving at the minimum charge.

3. Where the consumer installs a double throw switch, in a manner satisfactory to the company, so that any two or more appliances can not be connected at any one time, the connected capacity will be taken as the maximum load that may be connected at any one time.

**SCHEDULE P-1.**

Applicable throughout the territory served to industrial and agricultural power service.

*Rate.*

Horsepower of connected load	Rate per kilowatt hour for monthly consumption of			
	First 50 kilowatt hours per horsepower	Next 50 kilowatt hours per horsepower	Next 150 kilowatt hours per horsepower	Over 250 kilowatt hours per horsepower
Less than 10-----	5.0 cents	3.5 cents	2.7 cents	2.0 cents
10-24 -----	4.0 cents	3.0 cents	2.3 cents	1.8 cents
25-49 -----	3.5 cents	2.5 cents	2.0 cents	1.6 cents
50-99 -----	3.0 cents	2.2 cents	1.8 cents	1.4 cents
100 and over-----	2.8 cents	2.0 cents	1.6 cents	1.2 cents

*Minimum Charge.*

First 50 horsepower of connected load----- \$1 00 per horsepower per month  
 But in no case less than----- 1 50 per month  
 Each additional horsepower----- 65 per horsepower per month

Where the service is of a seasonal character and the consumer signs a contract for a term of not less than one year the minimum charge may be adjusted upon an annual instead of a monthly basis.

*Special Conditions.*

Where the consumer installs a double throw switch, in a manner satisfactory to the company, so that the entire load can not be connected at any one time, the connected capacity will be taken as the maximum load that may be connected at any one time.

## DECISION No. 12582.

JAMES W. FLANNERY ET AL.

vs.

GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 1844.

Decided September 7, 1923.

**RATES—STEAM HEATING SERVICE.**—While the showing by the utility discloses that the cost of service is relatively higher than that of its competitor in the same field, the Commission holds that it can not differentiate in favor of the less efficient plant and fixes the same rates as apply to the competitor company under Decision No. 12580.

*Albert I. Loeb*, for Complainants.

*Adams and Humphreys*, for Apartment House Association.

*Guy C. Earl and Chaffec E. Hall*, for Defendant.

MARTIN, Commissioner.

**OPINION.**

James W. Flannery et al., consumers of steam heat from the system of Great Western Power Company of California, hereinafter referred to as defendant, allege that there has been a material reduction in the price of fuel oil since the rates for this service were last under review by this Commission, and ask that the Commission conduct an investigation into the reasonableness of these rates at the present time. Public hearings were held in San Francisco at which the complainants produced evidence as to changes in the price of oil and the cost of fuel for the operation of private heating plants and at which the engineers of the company and of the Railroad Commission testified as to investigations of the value of the property, its operating expenses and revenues. The matter was duly submitted and is ready for decision.

In San Francisco Great Western Power Company of California operates four boiler plants in connection with the distribution of steam for heating purposes with a total capacity of 5100 boiler horsepower. At three of these plants steam is first used in the operation of electric generators with a capacity of 7000 kilovolt amperes. Exhaust steam is supplied to the distribution system, which consists of approximately eight miles of mains to which are connected some 400 consumers. In Oakland two plants with a boiler capacity totalling 300 boiler horsepower furnish steam to approximately sixty consumers through about one mile of mains. Steam heating service is also supplied in both San Francisco and Oakland by Pacific Gas and Electric Company and to a considerable extent the two services are operated in competition. The rates charged by Pacific Gas and Electric Company for steam heating service were the subject of a similar complaint, hearings in which paralleled those in the present proceeding.



The supply of steam heat appears to have been carried on for a number of years in connection with the more important business of distributing electricity. The distribution of steam for heating purposes was not a public utility service under the provisions of the Public Utilities Act until its amendment in 1919 and there are many plain indications that steam heating operations under unregulated rates were of great convenience in holding and competing for electric business at uniform, nondiscriminatory rates. Not long after the amendment of the Public Utilities Act to include "heat corporations" as public utilities subject to the jurisdiction and regulation of the Railroad Commission, Great Western Power Company of California applied to the Commission for authority to discontinue deviations from schedule rates for steam service. An examination of the business showed that there were many special and discriminatory rates and that under the increased price of oil in effect at the time the business was far from remunerative. The Commission, accordingly, authorized the removal of deviations and the charging of all consumers upon the schedule rates which were at that time in effect. (Dec. 7575, May 17, 1920, 18 C. R. C., 198.) These rates have remained in effect until the present time, although in the meantime the price of oil considerably increased and later decreased.

Defendant's claims for the value of its system are based upon an inventory and appraisal of the property made in 1918 and brought down to date by the inclusion of additions and betterments, as shown upon its books. The original inventory and appraisal were carefully checked during the course of preparation by an engineer representing the Commission and the additions and betterments reported have also been examined and checked. The result is that the figures now presented by the defendant and by the Commission's engineer differ in but few important particulars. The only difference worthy of consideration is in the allocation of the cost of the property at Bush street between the steam heating and electric services. The property in question consists of land and a building which houses boilers, steam turbines, electric generators, electric substation equipment and the company's general offices. The boilers, turbines and generators are operated entirely in accordance with the requirements of the steam distribution system producing electricity essentially as a byproduct, and the Commission in its recent decision involving the electric rates of defendant (Dec. 11466, January 3, 1923) allocated their cost and part of the cost of the land and building to the steam distribution service. In the present case the Commission's engineer has presented figures consistent with those used by the Commission in its previous decision. Defendant, on the other hand, asserts that a large proportion of the cost of the land and buildings is allocable to the steam service and presents a figure approximately \$60,000 higher.

The correctness of this contention is not of great importance at the present time, for as will appear later, defendant will be unable to earn the full net return upon the cost of its property which might under other circumstances be considered reasonable. For the sake of consistency, we will use the figures as presented by our engineer in accordance with the previous decision. Considering the present decision and the decision in the electric rate case together, it is apparent that the cost of the entire property has been included in one decision or the other and the company can hardly claim that an injustice has been done it.

Table I shows the reasonable average investment for the year 1922.

TABLE I.  
*Rate Base—Year 1922.*

Steam Department—Great Western Power Company of California.

	Claimed	Allowed
Land .....	\$34,217 00	
Buildings and general structures .....	78,197 00	\$52,131 00
Production equipment .....	654,609 00	654,609 00
Distribution mains and services .....	590,893 00	590,893 00
Meters .....	17,561 00	17,561 00
<b>Total property .....</b>	<b>\$1,375,477 00</b>	<b>\$1,315,194 00</b>
Working cash capital and material and supplies .....	63,200 00	65,300 00
	<b>\$1,438,677 00</b>	<b>\$1,380,494 00</b>

The usual routine additions to the property are constantly being made and after due consideration of the figures presented the sum of \$1,382,544 is found to be a reasonable rate base for the year 1923.

Figures on past operating revenues and expenses and estimates for the future were presented on behalf of both the company and the Commission. The operations in this department of the company's business have been quite uniform and there was a general agreement upon the figures submitted, except for one item which again involves the joint operation of the steam and the electric services. As before pointed out, the boilers and electric generators in certain of the steam heating plants are operated primarily as a part of the steam heating system and in its consideration of electric rates the Commission charged this equipment entirely to the steam heating service. The electric department, however, was charged and the steam department credited with the value of six million kilowatt hours of electrical output, a unit price of one cent per kilowatt hour being used. In the present proceeding defendant takes the position that this price is too high and that the electrical output delivered to the electric distribution system in San Francisco merely replaces available hydro-electric power which could be supplied at a cost of much less than one cent per kilowatt hour. In this case, as in the allocation of the cost of land and

ilding, we will follow the decision in the electric rate case. Table II  
ows the figures of operating revenue under existing rates and of  
erating expenses and depreciation as presented by the Commission's  
gineer.

TABLE II.

*Operating Revenue and Expenses.*

Steam Department—Great Western Power Company of California.

(From Commission's Exhibit No. 1.)

Item	1920	1921	Year 1922	**1923
Revenue:				
From consumers -----	\$292,225 00	\$330,671 00	\$348,377 00	\$367,102 00
Credit for electric energy ----	67,497 00	59,129 00	60,143 00	61,337 00
Totals -----	\$359,722 00	\$389,800 00	\$408,520 00	\$428,439 00
Operating expenses:				
Fuel oil -----	\$219,255 00	\$232,248 00	\$181,044 00	\$155,492 00
Other operating expense ----	99,322 00	92,366 00	89,358 00	89,358 00
Maintenance -----	27,353 00	30,446 00	27,568 00	27,568 00
Taxes -----	13,547 00	21,917 00	24,800 00	26,128 00
General -----	9,313 00	11,272 00	13,553 00	13,553 00
Totals -----	\$368,790 00	\$388,249 00	\$336,323 00	\$312,099 00
Net for depreciation and return	*\$9,068 00	\$1,551 00	\$72,197 00	\$116,340 00
Depreciation -----	22,390 00	22,530 00	22,589 00	22,644 00
Net for return -----	*\$31,458 00	\$20,979 00	\$49,608 00	\$93,696 00
Rate base -----	\$1,373,188 00	\$1,378,316 00	\$1,380,494 00	\$1,382,544 00
Rate of return -----	*2.3	*1.5	3.6	6.8

\*Deficit. \*\*Estimated present rates.

The above figures show that even with the present rates and reduced price of oil, defendant is not making an excessive return upon the cost of the plant used in its steam heating service. As has previously been pointed out, however, Pacific Gas and Electric Company is applying a similar service under similar conditions in almost the same territory. By Decision No. 12580, dated September 7, 1923, the Commission has just fixed rates lower than those now charged by defendant, but which are calculated to yield Pacific Gas and Electric Company an adequate return upon its investment. Some search must be made for the causes of the lower return to Great Western Power Company of California under higher rates than those fixed for its competitor. This condition may be explained in whole or in part by certain differences in the fundamental design and in the construction of the two systems. Pacific Gas and Electric Company operates its mains at boiler pressure while defendant is distributing, largely, though not entirely, exhaust steam at low pressure, with a consequent increase in the size of mains required and in the investment in them. Under favorable conditions these factors might be more than offset by

the production of electrical energy, but in view of the extent of the distribution system and the relatively low value placed upon the electrical output, particularly by defendant itself, this type of system does not appear in this instance to be an economic success. The general type of construction of all but the newer mains of defendant is less permanent than that adopted by its competitor and condensation losses and maintenance charges are correspondingly higher. That the facilities in question were originally acquired by Great Western Power Company of California and were not designed or constructed by it, may relieve it of criticism, but does not alter the present condition of its system nor change the situation from the standpoint of the rate payer. Regardless of the extent to which each of these individual items may or may not account for the difference in operating results, the fact remains that the operations are carried on in similar territories and to a large extent in competition in the identical territory. This Commission should, indeed, be slow to accept the service or the operations of any single utility as standards against which to measure the performance of all other utilities, but in the absence of convincing reasons we are clearly not justified in allowing one utility rates higher than are necessary to adequately support the operations of a similar utility operating in the same territory under practically identical conditions. The order accompanying this decision will, therefore, provide for Great Western Power Company of California the same rates that have been fixed by Decision No. 12580 for Pacific Gas and Electric Company which, it is estimated, will result in a net return on the reasonable investment in defendant's property of approximately 3 per cent.

Provision has been made for the adjustment of these rates to meet fluctuations in the price of oil, such adjustment to become effective upon supplemental order of this Commission without the delay incident to a formal hearing.

I recommend the following form of order:

#### ORDER.

Complaint having been made to the Railroad Commission regarding the rates and charges of Great Western Power Company of California for steam heating service, public hearings having been held and the matter being submitted and now ready for decision,

The Railroad Commission hereby finds as a fact that the rates and charges of Great Western Power Company of California for steam heating service are unjust, unreasonable and discriminatory in so far as they differ from the rates and charges hereinafter set forth, which rates and charges are hereby found to be just and reasonable.

Basing its order on the foregoing findings of fact, and on the findings of fact in the opinion preceding this order;

# CALIFORNIA RAILROAD COMMISSION DECISIONS.

It is hereby ordered, that

Effective with bills based on regular monthly meter readings on and after October 1, 1923, Great Western Power Company of California shall charge and collect for steam heating service the following schedule of rates:

## SCHEDULE S-1.

*Character of Service.*

Steam will be supplied under this schedule for heating service.

*Locality.*

This rate applies in the city and county of San Francisco and in the city of Alameda County.

2.

Based upon the monthly consumption per meter:

the first 20,000 pounds-----	\$1 25 per thousand pounds
the next 25,000 pounds-----	1 05 per thousand pounds
the next 35,000 pounds-----	95 per thousand pounds
the next 150,000 pounds-----	85 per thousand pounds
the next 170,000 pounds-----	75 per thousand pounds
all over 400,000 pounds-----	65 per thousand pounds

The above rates are subject to increase or decrease on the basis of three cents 1000 pounds for each 10 cents per barrel increase or decrease, respectively, in cost of oil above or below the price paid for oil effective on August 1, 1923, upon approval of the Railroad Commission of the State of California. Change in rate to be to the nearest one cent.

*Minimum Charge.*

One dollar per month per 100 square feet of direct radiation, but not less than \$7.50.

*Special Conditions.*

a. Measurement of service—

The consumption of steam will normally be measured by condensation meters. In cases where the condensation can not be measured the charge will be based upon estimated consumption.

In case of a change in the price paid for oil, Great Western Power Company of California shall file within ten (10) days thereafter an affidavit setting forth the new price paid for oil and shall thereafter, upon supplemental order of this Commission in this proceeding charge increased or reduced rates as determined under the schedule herein set forth.

Great Western Power Company of California shall file with the Commission on or before October 1, 1923, the schedules of rates and charges herein set forth.

The effective date of this order shall be October 1, 1923.

The foregoing opinion and order are hereby approved and ordered published as the opinion and order of the Railroad Commission of the State of California.

Wanted at San Francisco, California, this seventh day of September, 1923.

## DECISION No. 12584.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES JUNCTION RAILWAY COMPANY TO ISSUE AND SELL ONE MILLION DOLLARS PAR VALUE OF ITS CAPITAL STOCK AND TO ISSUE PROMISSORY NOTES IN THE SUM OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 9205.

Decided September 7, 1923.

**SECURITIES—CAPITALIZATION OF POTENTIAL VALUES—AUTHORIZATION OF NOTES DENIED.**—The Commission holds that to capitalize potential values a district, as it would be with the proposed improvements developed, would constitute a form of over-capitalization as though stock were sold at exorbitant discounts or given away as a bonus. Consequently the Commission refuses to sanction purchase of land at \$20,000 an acre, which Commission finds to be of a reasonable value of \$7,500 an acre. Permission to issue notes covering the higher price per acre held to be unnecessary if a reasonable price is paid for the land.

*Leroy M. Edwards*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Los Angeles Junction Railway Company asks permission to issue and sell at par for cash \$1,000,000 of common capital stock and to issue and sell at par for cash \$250,000 of unsecured notes, bearing interest not to exceed 7 per cent per annum and payable one or more years from date.

Los Angeles Junction Railway Company is a corporation duly organized and existing under the laws of the State of California. It is authorized to acquire, build, construct and operate a railroad for the purpose of carrying and transporting freight, passengers, packages, mail and express for hire. The corporation was organized in May, 1923, and has an authorized capital stock of \$1,000,000 divided into 10,000 shares of \$100 each.

The Los Angeles Junction Railway was organized by John S. Spoor, chairman of the board of directors of Chicago Junction Railway, and his associates. It is of record that they have been to a large extent, responsible for the development of the Central Manufacturing District of Chicago, served by the Chicago Junction Railway. After an extended investigation they acquired a tract of land, some three hundred acres, located in San Antonio township, county of Los Angeles, lying adjacent to Downey road and immediately east of the city of Vernon. They are undertaking to develop this tract of land as a central manufacturing district. To serve the industries that will locate in such district, they have organized applicant corporation which intends to acquire and construct a standard gauge railroad having its main switch yard located in the central manufacturing district and having spur tracks radiating and extending to all parts of the property comprising said central manufacturing district and other territory adjacent to its

ne. Applicant intends to connect with the Southern Pacific, the Union Pacific (Los Angeles and Salt Lake) Santa Fe and Pacific Electric tracks. It will operate primarily as a terminal switching carrier.

Applicant asks permission to issue and sell for cash at par \$1,000,000 of common capital stock and \$250,000 of unsecured notes. It intends to use the proceeds obtained from the sale of the stock and notes for the following purposes:

To purchase 47.3 acres of land at \$20,000 per acre	\$946,000 00
To purchase approximately three miles of tracks and other improvements constructed	54,000 00
To construct additional tracks and purchase equipment and rights-of-way	200,000 00
Working capital	50,000 00
Total	\$1,250,000 00

The testimony shows that applicant may have need for the 47.3 acres of land for right of way and terminal purposes. The land lies immediately adjacent to the Los Angeles River and consists of a strip about 200 feet wide, extending from Downey road to about 392 feet west of Pasadena avenue.

Applicant asks permission to issue and sell stock and use the proceeds obtained from the sale of its stock to acquire the land at a cost of \$20,000 an acre. It justifies the payment of such price by offering evidence showing that the central manufacturing district has sold land at a price in excess of \$20,000 an acre and that W. L. Brent, vice president of the Los Angeles Realty Board, had placed a value of \$20,000 an acre on land in the district. Following the hearing, E. P. McAuliffe, an assistant engineer for the Commission, made an appraisal of the land in question. He reports that if the men behind the development of the central manufacturing district "have the ability to perform and the desire to perform and that the central manufacturing district will continue the development already started, then \$20,000 an acre is a reasonable value for the land. If, on the other hand, the central manufacturing district stopped their development, or if their financial support was withdrawn, then \$7,500 an acre would be a high value for the land." E. P. McAuliffe further reports that at the time he made his investigation, which was subsequent to the hearing, there was no written evidence of the sale of any property, no signed agreements, contracts or deeds. He was advised that only verbal offers and acceptances existed. There have since been filed with the Commission two preliminary agreements of sale and a lease agreement. The sale agreements provide that if the purchasers do not construct buildings before June 1, 1924, the seller as the option to buy back the land at any time within six months after June 1, 1924, at the same price at which it was sold. The record does not show whether there exists any intercorporate relation, direct or indirect, between the purchasers and sellers of the property. It is clear

that such a relation does exist between applicant and those who are developing the central manufacturing district.

It appears to us that the Commission is asked to permit the capitalization of a potential value. We are, in effect, asked to consider the value of the land, as it would be with the district developed, the railroad constituting part of the improvements in the district. We can not, in this proceeding, consider the increase in land values because certain buildings may be constructed and certain industries may locate in the district. We think such a procedure would result in the same form of overcapitalization as though stock were sold at exorbitant discounts or given away as a bonus. For the purpose of this proceeding, we will assume the land which applicant asks permission to buy to have a value of \$7,500 per acre. This will be the maximum we will allow applicant to pay for the land through the issue of stock or evidence of indebtedness.

The evidence submitted at the hearing shows approximately three miles of standard gauge track, constructed at a cost of about \$54,000. An examination made after the hearing by the Commission's engineering department shows 2.77 miles of track constructed at a cost of \$34,814.29 and \$27,127.64 of materials and supplies on hand. Counsel for applicant explains this discrepancy by stating that he obtained the \$54,000 from the Chicago office which had assumed more track laid than was actually laid at the date of the hearing. The track constructed will be acquired by applicant at cost. Within the near future, three miles more of track must be built. In addition, applicant will have to purchase locomotives, freight facilities, housing and repair facilities for the locomotives. Additional rights of way must be acquired to connect with the Southern Pacific and Santa Fe tracks. Such rights of way must be purchased from third parties who have no interest in the Los Angeles Junction Railway or in the central manufacturing district. The exact location of the right of way to connect with the Santa Fe and Southern Pacific has not been determined. Applicant estimates that for the construction of the additional three miles of track, the purchase of locomotives, freight facilities and the housing and repair facilities and rights of way, it will have to expend at least \$200,000.

Applicant asks permission to issue \$250,000 face value of notes. It appears to us that no need for the issue of the notes exists at this time. Applicant reports that it has made arrangements for the sale of its stock for cash at par. Inasmuch as the Commission is of the opinion that applicant should not pay more than \$7,500 per acre for the 47.3 acres of land, it is not necessary to authorize the issue of all the stock and notes applied for. The 47.3 acres of land will cost applicant \$354,750. Allowing \$285,000 for purchase and construction of tracks, locomotives, freight facilities, rights of way and working capital, makes a total



capital requirement of \$639,750. The evidence shows that applicant will realize more than \$639,750 from the sale of stock, making the issue of notes unnecessary.

### ORDER.

Los Angeles Junction Railway Company having applied to the Railroad Commission for permission to issue \$1,000,000 of common capital stock and \$250,000 of notes, a public hearing having been held before examiner Fankhauser and the Railroad Commission being of the opinion that applicant should be authorized to issue \$1,000,000 of stock and forthwith sell \$639,800 of such stock, that the application to issue notes should be dismissed and that the money, property or labor to be procured or paid for by the issue and sale of \$639,800 of stock is reasonably required for the purpose or purposes specified in this order; *It is hereby ordered*, that the Los Angeles Junction Railway Company and it is hereby authorized to issue \$1,000,000 of stock and sell \$639,800 of such stock for cash at not less than par.

*It is hereby further ordered*, that this application, in so far as it involves the issue of \$250,000 of notes, be dismissed without prejudice.

The authority to issue stock and notes is subject to the following conditions:

1. The proceeds obtained from the sale of the stock shall be used for the following purposes:

purchase 47 3/10 acres of land described in this application-----	\$354,750 00
purchase approximately three miles of track and improvements constructed and described in this application, approximately----	34,815 00
construct additional tracks, purchase locomotives, freight facilities, housing and repair facilities and rights of way described in this application, approximately -----	200,000 00
working capital, approximately-----	50,235 00
Total -----	\$639,800 00

2. Los Angeles Junction Railway shall keep such record of the issue and sale of stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue stock will become effective upon the date hereof. The authority herein granted to issue stock will expire on March 1, 1924.

*It is hereby further ordered*, that \$360,200 of stock herein authorized be issued may be sold only upon such terms and conditions and for such purposes as the Commission will authorize by a supplemental order or orders.

Dated at San Francisco, California, this seventh day of September, 1923.

## DECISION No. 12591.

IN THE MATTER OF THE APPLICATION OF JOHN SCARBOROUGH  
FOR AUTHORIZATION OF A FLAT WATER RATE AND AUTHORITY  
TO MORTGAGE THE PLANT.

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Application No. 9249.

Decided September 13, 1923.

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*John Scarborough, in propria persona.*

BY THE COMMISSION.

## OPINION.

John Scarborough, owning and operating a small system supplying water for domestic purposes to fourteen consumers located on the La Freza Tract, near Gardena, Los Angeles County, asks authority to increase the rates for water delivered to his consumers and for permission to mortgage the plant. It is alleged in effect that the present schedule of rates does not yield a revenue sufficient to cover operating expenses.

A public hearing in this matter was held at Los Angeles before Examiner Williams, all of applicant's consumers having been duly notified and given an opportunity to be present and to be heard.

At the hearing the application was amended by striking out the request to mortgage the plant, as applicant has arranged to substitute a loan for a period of one year, which will not require the Commission's authorization.

This water system was constructed and originally operated by the Flora Water Company, Incorporated, a public utility organized by residents of this subdivision to procure water primarily for themselves. Nonstockholders were also served. In 1920 the system was sold to Elroy M. Johnson. In 1921 he disposed of his interest in the water system to John Scarborough, the applicant herein, who has since operated the plant.

Water is obtained from a 12-inch well about 300 feet deep, and is pumped into a 10,000-gallon tank on a 30-foot tower, from which it is distributed to consumers.

The Railroad Commission by Decision No. 8891, dated April 20, 1921, established meter rates for this system but for various reasons these rates have not been collected except in a few instances, and it appears that under the circumstances a flat rate schedule is perhaps best adapted for use in this particular locality.

At the hearing in this matter F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report covering the results of a field investigation of the system and a study of the maintenance and operating expense and the revenues of this utility. This report

shows the estimated original cost of the system now used and useful as of August 15, 1923, amounting to \$4,886; a depreciation annuity of \$88; and an estimate of reasonable annual expense for the proper maintenance and operation of the plant amounting to \$870. These figures were not questioned at the hearing, although applicant submitted an exhibit purporting to show an operating expense for the first six months of 1923 amounting to \$366.70, and revenues for the same period of \$167.80. It appears that the statement of maintenance and operation expense submitted by applicant is incomplete and is also erroneous in other respects.

Rates have not been collected in strict accordance with the schedule established by the Commission, and collections have been so irregular that it is impossible to ascertain from the records the actual revenue which should have been collected during the past year. It is quite evident, however, that had all amounts due been collected from consumers, the total would have been considerably less than the estimate of reasonable maintenance and operating expense submitted by Mr. Van Hoesen.

The service rendered by this system at times in the past has been inadequate, but applicant during the present year has made improvements in his pumping equipment which have improved service.

The evidence clearly shows that applicant should be granted an increase in rates if service to the consumers on this tract is to be continued, but as the system is admitted by its owner to be overbuilt and in need of repair, it is apparent that a rate which would theoretically yield revenue sufficient to cover maintenance and operation expense, depreciation annuity and a return upon a reasonable investment would be so high that those consumers who could do so would move to other localities rather than pay the excessive charges. The schedule of rates established in the following order is designed to do substantial justice to both the consumers and the utility, considering the ability of the consumer to pay and the financial ability of applicant to continue service.

#### ORDER.

John Scarborough having made application for authority to increase the rates charged for water supplied to consumers on the La Freza tract, near Gardena, Los Angeles County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully advised in the matter:

It is hereby found as a fact that the rates now charged by John Scarborough for water delivered to consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that John Scarborough be and he is hereby directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered to consumers subsequent to September 30, 1923:

MONTHLY FLAT RATES.

Flat rates for household use-----	\$2 00
Irrigation or sprinkling of lawns, shrubbery, flowers or gardens, per 100 square feet-----	05
Chickens, birds or small animals, per hundred-----	25
Cows or horses, each-----	25
Goats, each-----	15

Dated at San Francisco, California, this thirteenth day of September, 1923.

DECISION No. 12592.

IN THE MATTER OF THE APPLICATION OF JOHN C. GEYER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE THROUGH FREIGHT SERVICE BETWEEN SANTA CRUZ, CALIFORNIA. AND SAN FRANCISCO, CALIFORNIA, AND BETWEEN SANTA CRUZ, CALIFORNIA, AND OAKLAND, CALIFORNIA.

Application No. 8830.

Decided September 13, 1923.

CERTIFICATE—AUTO TRUCKS—CARRIERS HANDLING EXCLUSIVELY FARM PRODUCTS AND NECESSARIES EXEMPT.—Application dismissed as chapter 310, Statutes of 1923, effective August 23, 1923, provides that any one engaging in the operation of truck for the transportation of products or implements of husbandry or other farm necessities when moving directly to or from farms would not be required to secure a certificate under the provisions of chapter 213, Statutes of 1917, and amendments thereto authorizing such operation.

BY THE COMMISSION.

ORDER.

In this proceeding John C. Geyer has made application to the Railroad Commission in which he petitions for a certificate of public convenience and necessity authorizing the operation of an automobile truck line for the transportation of eggs, live poultry, fresh fruits and vegetables between farms located in the vicinity of Santa Cruz to San Francisco and Oakland. Applicant proposes to handle on the return haul poultry supplies, grain, box shoo, fillers and cushions, and empty containers. Semiweekly trips will be made for the transportation of eggs, and weekly trips for the transportation of live poultry, and daily trips, in season, for the transportation of fruits and vegetables. Rates to be charged as set out in Exhibit "A" attached to the application herein. Applicant proposed to handle no

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eight from intermediate points, Santa Cruz to Oakland or San Francisco.

Chapter 310, Statutes of 1923, effective August 17, 1923, provides that any one engaging in the operation of trucks for the transportation of products or implements of husbandry or other farm necessities, when moving directly to or from farms, would not be required to secure a certificate under the provisions of chapter 213, Statutes of 1917, and amendments thereto, authorizing such operation. From the application in this proceeding it would appear that this applicant intends to transport solely farm products, including eggs and live poultry, directly from farms in the vicinity of Santa Cruz to commission houses located in Oakland and San Francisco, and to transport on the return haul farm necessities directly to such farms. Under such circumstances no certificate would be required under the provisions of chapter 310, Statutes of 1923, and we are, accordingly, of the opinion that this application should be dismissed.

*It is hereby ordered*, that the above entitled application be and the same hereby is dismissed.

Dated at San Francisco, California, this thirteenth day of September, 1923.

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DECISION No. 12608.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL MENDOCINO COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AND BONDS.

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Application No. 7999.

Decided September 13, 1923.

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BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 12387, dated July 23, 1923, authorized the Central Mendocino County Power Company to issue and sell at not less than 90 per cent of their face value, plus accrued interest, \$100,000 of 6½ per cent 30-year bonds, such authority being granted subject to the condition that none of the bonds be issued or delivered until the Railroad Commission, by supplemental order, authorized the company to execute a mortgage or deed of trust securing the payment of the bonds.

On September 8th the company filed with the Commission a revised copy of its proposed mortgage or deed of trust. Such copy has been examined and is found to be in satisfactory form; therefore,

*It is hereby ordered*, that said Central Mendocino County Power Company be and it is hereby authorized to execute a mortgage or

deed of trust substantially in the same form as the mortgage or deed of trust filed with the Railroad Commission September 8, 1923, provided that the authority herein granted to execute such mortgage or deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

Dated at San Francisco, California, this thirteenth day of September, 1923.

## DECISION No. 12612.

CITY OF BERKELEY, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY.

Case No. 1894.

M. A. ROSS, L. E. BLOCHMAN, R. E. JOHNSON, HELEN L. HOUGH, CLARA C. CLARK, EMMA REAVY, EMILY S. HARRIS, JACK HENDERSON, FRANK L. SAYLOR, STELLA E. WOODHEAD, MRS. W. T. CLEVERDON, IRENUS E. HAYNES, GERTRUDE M. JACKSON, MATTIE C. GARLAND, PHILIP E. CHANDLER, CASSIE A. SIMPSON, MRS. F. W. KERN, MRS. C. DEHMEL, L. F. DAHNEKE, MRS. J. MCINDOE, GEORGE H. PARENT, ARTHUR G. RANLETT, MARY C. ELWELL, MRS. KAREN JORGENSEN, MRS. N. J. LINDQUIST, JAMES KLINGENSMITH, CHARLES MILLER, H. J. HANEY AND C. F. MARTENS

vs.

THE EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1924.

M. A. ROSS

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1927.

Decided September 14, 1923.

**RATES—WATER UTILITY—FIRE PROTECTION SERVICE.**—Held that present rates of East Bay Water Company are reasonable. Municipalities should pay a proper proportion of the total cost of fire protection utility service. The Commission can not recede from this position, heretofore taken, because one consumer finds it difficult or inconvenient to pay its share of the expense. All requests for reductions in rates or removal of charge against municipalities for fire protection utility service denied.

*Louis Bartlett and L. D. Sanderson, for City of Berkeley, Complainant.*

*Miss M. A. Ross, in propria persona, and for certain complainants.*

*E. O. Edgerton and McKee, Tashcira and Wahrhaftig, by Arthur G. Tashcira, for Defendants.*

BY THE COMMISSION.

**OPINION.**

The complaint of the city of Berkeley alleges in effect that the present rates charged by East Bay Water Company are unfair and exorbitant and enable the utility to earn a return upon the cost of property not used or useful in supplying service to consumers. It is further alleged that there was an increase of 14 per cent in revenues for the year 1922 over those for 1921, and that future increases in consumption can be cared for with relatively small expenditures for additional equipment and with insignificant increases in operating expenses. It is asserted that the city of Berkeley is unable, on account of charter limitations, to pay the present rates for fire protection

service. The Commission is asked to eliminate the "stand-by" charge for such service, to leave each of the East Bay cities free to negotiate with the utility for the installation of mains and other equipment required for fire protection, and to reduce the present rates of East Bay Water Company at least 10 per cent.

In Case No. 1924 M. A. Ross and twenty-eight other individuals allege in effect that East Bay Water Company, by use of the so-called annuity method of computing amortization and depreciation, is enabled to earn, and for a long time past has been and still is earning, a considerably higher rate of return on its investment in used and useful property than is shown in the report of the Commission's engineering department, filed at the initial hearing in the above entitled Case No. 1894. It is also alleged that the utility is collecting revenue from land which is neither used nor useful for water producing purposes. Further complaint is made against the provisions of some of the Commission's Rules of Procedure on the ground that they place undue burdens upon the ratepayers. The Commission is asked to investigate defendant's methods of accounting; to have redress made to complainants herein and to other consumers of the utility for all amounts erroneously collected; to make proper deductions from the utility's capital accounts; to eliminate unnecessary lands; to correct other injustices to consumers; and to provide for such changes in the Commission's Rules of Procedure as are necessary and desirable.

The complaint of M. A. Ross, in Case No. 1927, alleges in effect that East Bay Water Company is violating the provisions of law and the rules and orders of this Commission by reason of the identical acts complained of in Case No. 1924.

The answer of East Bay Water Company to the complaint of the city of Berkeley constitutes a general denial of the essential allegations of the complaint and in particular avers that the utility, during the year 1922, realized a return of not more than 7.05 per cent on its investment in operative property. By way of answer to the complaint of M. A. Ross et al., in Case No. 1924, defendant enters a general denial of the allegations therein, and by stipulation at the hearing it was agreed that this answer should also be accepted and considered as defendant's answer to the allegations contained in the complaint in Case No. 1927.

Public hearings in the above entitled matters were held in San Francisco by the Commission, all interested parties having been duly notified and given an opportunity to be present and to be heard. In order to facilitate matters it was stipulated that the three complaints might be consolidated for hearing and decision.

The position of the city of Berkeley, as indicated by argument and evidence submitted at the hearing, is that the present rates of East



Bay Water Company should be reduced 12.65 per cent, the showing being based upon what the city's representative termed the "prudent investment theory" of rate fixing, and the amount considered reasonable as a return upon the assumed investment in used and useful property being calculated upon the rates of interest actually paid upon outstanding bonds and dividend rates on outstanding stock. It should be noted that, although the city's principal exhibit includes an estimated increase in the utility's net earnings for the year 1923, no provision is made therein for the necessary additions to capital during the same year, which the evidence indicates will amount to at least one million dollars. The addition of this necessary additional capital will obviously materially reduce the city's estimate of so-called excess earnings.

To substantiate the allegations of complainants in Cases Nos. 1924 and 1927 there were submitted in evidence statements purporting to show results of operation for the year 1922, which indicated rates of return of 13.5 per cent, 16 per cent and 19.9 per cent, depending upon various assumptions as to values of nonoperative lands. It was therefore asserted that a reduction in rates amounting to at least 10 per cent is justified and that a rebate of approximately \$290,667 be made to consumers for the year 1922. It may be stated in passing that complainants in Cases Nos. 1924 and 1927 have not fully considered the basic principles of depreciation and have become confused by reason of an erroneous combination of various elements of fundamentally different methods.

An investigation of the results of operation of East Bay Water Company was made by the Commission's hydraulic engineers and by the department of finance and accounts. The results of this investigation were submitted in evidence at the hearing and the following figures were shown in the engineering report:

Average rate base, year 1922-----	\$19,845,154
Expenses, 1922:	
Maintenance and operation-----	\$1,268,122
Depreciation annuity -----	183,472
Total expenses -----	\$1,451,594
Operating revenues, 1922-----	\$2,887,160
Total expenses, 1922-----	1,451,594
Available for return-----	\$1,435,566
Rate of return on average rate base of \$19,845,154-----	7.24%

The question as to the proper amount to be excluded from rate base for nonoperative lands was again made a matter of controversy in the present proceedings. This question was thoroughly considered by the Commission in Decision No. 10347, dated April 22, 1922, and the

evidence submitted in the present proceedings is not of sufficient weight to indicate that the Commission's former finding of the proper amount to be excluded from rate base on account of nonoperative lands should, at this time, be modified.

The Commission has very carefully considered the matters in controversy in these proceedings, including the value for rate fixing purposes of the property devoted to the public use, the proper deductions to be made for nonoperative lands, reasonable allowances for maintenance and operation expense, depreciation annuity, and all other factors affecting a determination as to whether or not East Bay Water Company is enabled to earn an excessive return under its present schedule of rates. Complete discussion of all the evidence submitted, and of the underlying principles of rate fixing, is believed unnecessary, as many of the matters and the principles involved have been brought to the attention of the Commission in previous proceedings in which this utility was involved and have been considered exhaustively in the decisions heretofore rendered.

The evidence presented in the present proceedings is not sufficient to indicate that the principles heretofore established are erroneous or that a reversal of the Commission's position is justified.

The Commission is also of the opinion that the estimates of rate base, maintenance and operation expense, and depreciation annuity contained in the report of its hydraulic engineers are reasonable, and further that the rate of return upon the average fair value for rate fixing purposes of the property devoted to the public use was approximately 7.24 per cent for the year 1922.

Obviously the question of a reasonable rate of return upon any utility property depends upon the conditions and circumstances affecting that particular property. The final determination must of necessity be largely a matter of judgment. Giving consideration to all pertinent factors the Commission is of the opinion that a rate of return of 7.24 per cent for East Bay Water Company is not excessive at this time.

It will also be unnecessary to discuss the fundamental principles governing the establishment of rates for fire protection service as the Commission's previous decisions in the matter are clear and explicit. Reference may be made thereto for a full explanation of the methods employed in determining what portion of the total cost of rendering service should be assessed against the municipality on account of fire protection. The Commission is still of the opinion that the municipalities should pay a proper proportion of the total cost of the utility service and can not recede from the position heretofore taken because of the fact that one consumer finds it difficult or inconvenient to pay its share of expense.

All matters brought to the Commission's attention in these proceedings have received the same careful consideration as has been given the vital factors affecting the reasonableness of the rates, and the only course open is a dismissal of the complaints.

#### ORDER.

Complaints having been made as entitled above against the East Bay Water Company and the reasonableness of the rates charged by that utility for service to its consumers, public hearings having been held thereon, the matters having been submitted, and the Commission being now fully informed in the premises:

It is hereby found as a fact that the rates now charged by East Bay Water Company for water delivered to consumers are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that the above entitled complaints be and they are hereby dismissed.

Dated at San Francisco, California, this fourteenth day of September, 1923.

## DECISION No. 12613.

IN THE MATTER OF THE APPLICATION OF THE SANTA FE AND LOS ANGELES HARBOR RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT ITS LINE OF RAILROAD OVER AND ACROSS THE STREETS AND ALLEYS, ROADS AND LINES OF ELECTRIC RAILWAY BETWEEN EL SEGUNDO AND WILMINGTON, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 9145.

Decided September 14, 1923.

CERTIFICATE—STEAM RAILROAD—AUTOMATIC FLAGMEN ORDERED INSTALLED—SEPARATION OF GRADES ORDERED.—Permission is granted to The Santa Fe and Los Angeles Harbor Railway Company to construct its line of railroad at grade across certain streets, alleys and roads in the county of Los Angeles and in the city of Torrance.

Automatic flagmen ordered installed for protection of Carson street and Arlington avenue crossings.

Separation of grades ordered at crossings over Inglewood and Redondo road, Gould lane, Hawthorne avenue, Normandie avenue, at applicant's sole expense.

Permission denied for construction of grade crossings at Dominguez street, two alleys between Cedar avenue and Beech avenue, Beech avenue, Eighth street, alley between Eighth street and Acacia avenue, Acacia avenue, alley between Acacia avenue and Tenth street, and Tenth street.

*M. W. Reed*, for Applicant.

*Frank Karr*, for Pacific Electric Railway Company.

*David R. Faries*, for Automobile Club of Southern California.

*Edward T. Bishop*, County Counsel, and *Roy W. Dowds*, Deputy County Counsel, by *Roy W. Dowds* and *D. Decoster*, for Los Angeles County Board of Supervisors.

*Perry G. Briney*, City Attorney, and *A. J. Jessup*, City Engineer, for City of Torrance.

*George A. Damon* and *Hugh Pomeroy*, for Regional Planning Commission of the County of Los Angeles.

*Milton Bryan* and *C. Gordon Whitnall*, for City of Los Angeles.

*H. F. Lembke*, for Los Angeles Harbor Chamber of Commerce.

*Mr. Barnes*, in propria persona and for Ingram Company and Central Avenue Improvement Association of Manchester.

*John Y. Lambert*, for Harbor Speedway Association.

*H. G. Weeks*, Transportation Engineer, Railroad Commission of the State of California.

*BRUNDIGE*, Commissioner.

## OPINION.

Applicant herein is a subsidiary of The Atchison, Topeka and Santa Fe Railway Company, organized to construct an extension of the Santa Fe to Los Angeles Harbor. In the original application authorization was asked to cross several public highways in the unincorporated portions of Los Angeles County, in the city of Torrance and the city of Los Angeles on a proposed location extending from El Segundo, a point on the Redondo Branch of the Santa Fe, to a connection with the Municipal Terminal Railway of the city of Los Angeles near the West Basin, Los Angeles Harbor.

Prior to hearing on the original application the first supplemental application was filed submitting, generally speaking, detailed plans of

proposed separated grade crossings and an amendment adding to the list of highways proposed to be crossed at grade certain additional streets in the city of Torrance.

At the first hearing, August 3, 1923, applicant filed a second supplemental application, amending the original application by the substitution of a new route southerly from the proposed crossing of Normandie avenue and by the withdrawal of the application for authorization of all crossings on the original route which were located in the city of Los Angeles. At the same time a third supplemental application was filed asking authority to construct several crossings at grade on a proposed spur off the main line, this spur connecting with the main line north of Torrance and extending southerly a distance of two and one-half miles.

A further hearing was held August 15, 1923, after certain protestants had advised the Commission that they had not received notice of hearing in time to make their appearance.

As the matter now stands applicant asks the Commission's authority to establish certain crossings at grade between El Segundo and its crossing of Normandie avenue, as shown by Applicant's Exhibits "A," "B," and "C," filed with the application, and as further shown on Applicant's Exhibit "I," which amends said Exhibit "A" through a portion of the city of Torrance, and for certain other crossings at grade as shown on Applicant's Exhibits "L," "M," and "N," which is the map of the amended location from the Normandie avenue crossing to Wilmington. Authorization was also asked of several crossings at grade on the above mentioned spur track, as shown on Applicant's Exhibits "P," "Q," and "R." Lastly, approval is asked for the plans of grade separation at the overcrossing of Gould lane, as shown by Applicant's Exhibit "F," the overcrossing of the Pacific Electric at El Nido, as shown on Applicant's Exhibit "G," the overcrossing of Hawthorne avenue, as shown on Applicant's Exhibit "H," and the overcrossing of the Pacific Electric and of Normandie avenue adjacent thereto, as shown on Applicant's Exhibit "J." It was provided that applicant would file plans for the proposed overcrossing of Main street. This has not been done, but provision for later filing and approval will be made.

The plans for the separated grade crossings have been approved by the county of Los Angeles for the county highways crossed and by the Pacific Electric Railway for two overcrossings of its lines, except the Pacific Electric stated that it wished that at the Normandie avenue crossing provision should be made for four Pacific Electric tracks. The record shows that this matter is under negotiation and that the applicant made no amendment to the plans shown on its

Exhibit "J," which provides for the crossing of two Pacific Electric tracks.

Protests against the establishment of crossings at grade were made by the Automobile Club of Southern California for the crossings at Inglewood and Redondo road, Carson street and Arlington avenue. The Redondo Beach Chamber of Commerce, board of trustees of the city of Hermosa Beach and the Hermosa Beach Chamber of Commerce protested against the grade crossing of the Inglewood and Redondo road. The Regional Planning Commission of Los Angeles County appeared and presented its plans for future highway development in that portion of Los Angeles County adjacent to the proposed new line of railroad. Its position, it is thought, may be best expressed by the following quotation from the transcript (page 97):

the (Regional Planning) Commission realizes of course that it will be impossible for immediate construction work to be undertaken at all of these points to care for the proposed grade separations; that the Commission does feel that in some way, and without the Commission entering into the engineering features of it, provision must be made so that separation can be provided at each of these points. Whether that will be by raising the entire line of the railroad to the point where the highways can be made to dip under the grade of the railroad, whenever the highways are continued, or whatever means may be provided, the Regional Planning Commission leaves to the discretion of the Railroad Commission.

Commencing at the El Segundo end of the proposed lines, the first highway crossing is that of the Inglewood and Redondo road and of Rosecrans avenue, the track crossing within some fifteen feet of the intersection of these two roads. It appears that at this time Rosecrans avenue is an unimproved dirt street of little importance but that the Inglewood and Redondo road is an extremely important highway, carrying at this time the following vehicular traffic:

Saturday. August 4, 1923—7.00 a.m. to 9.30 p.m.-----	2866 vehicles
Sunday. August 5, 1923—7.00 a.m. to 9.00 p.m.-----	7686 vehicles
Monday. August 6, 1923—7.00 a.m. to 9.00 p.m.-----	2050 vehicles

The Regional Planning Commission of the county has designated the Inglewood and Redondo road as a primary highway. It connects Manhattan Beach and El Segundo with Los Angeles. Rosecrans avenue is also designated as a primary highway extending from the west of the crossing to El Segundo and on the east making a direct connection with Orange avenue to the north of Compton and continuing to, practically, Orange County.

At the first hearing representative of the Automobile Club of Southern California protested, subject to approval of the club, the installation of a grade crossing at this point. Applicant submitted a plan, Exhibit "S," for grade separation, based upon raising the railroad to full clearance over both the Inglewood and Redondo road and Rosecrans avenue, with a clear span of some one hundred sixty

feet. The cost, according to applicant's revised Exhibit "T," was estimated at \$206,500.

Written protest of the Automobile Club of Southern California having been filed with the Commission subsequent to the first hearing, Commissioner Seavey and I visited this crossing with representatives of the applicant and with our engineers. At our inspection our transportation engineer suggested as a basis for grade separation design and estimate, depression of Inglewood and Redondo road of six feet and elevation of applicant's track of eleven feet, with horizontal clearance of forty feet for the Inglewood and Redondo road. Rosecrans avenue, under this plan, was to be turned into Inglewood and Redondo road at both sides of the proposed subway, using additional land if necessary.

At the second hearing applicant submitted a plan, Applicant's Exhibit "V," predicated upon these suggestions and an estimate, Exhibit "U," based upon this plan. There was no criticism of the plan shown on Applicant's Exhibit "V." Grade separation would cost, according to Applicant's Exhibit "U," \$98,237.92. Our transportation engineer stated that a similar estimate by the Commission's engineering department was in the neighborhood of \$50,000.

It appears that the public convenience and necessity demand the construction of an overhead crossing at the Inglewood and Redondo road, provided this can be done at a reasonable expense. After consideration has been given, both to applicant's estimate and that of the Commission's engineering department, it is concluded that the expenditure of the amount indicated by Exhibit "U" is justified and that the order should provide for an overhead crossing substantially in accordance with Applicant's Exhibit "V."

The next crossing is that of Twenty-fifth street, which the evidence shows to be, at present, an unimportant dirt road, but in the plan of the Regional Planning Commission it is to be a secondary county highway connecting with Main street and leading to Compton and east thereof.

There are a number of crossings where the highway is not of importance at present but where the Regional Planning Commission has designated the road as a future important county highway. It may be several years before these proposed county highways are, as witness stated, transferred from paper to the ground, and it does not seem reasonable at this time to order the applicant herein to prepare for grade separation either by lowering or raising its tracks. The consideration of one such crossing is, of course, in the background when it is considered that a majority of the crossings on this proposed new line of railroad are in the same class, and that to direct the applicant to alter its line or grades and make ready for separated

grade crossings would, in effect, require a general elevation of its track through the whole twelve and one-half miles. The expense of such elevation is not justified and it appears that the Commission can do little at this time but authorize the construction of crossings at grade. The crossing of Twenty-fifth street should be allowed at grade at this time.

Since there are a number of crossings of this kind, it may be understood that unless some special mention is made of it no special protection appears necessary; that the view of approaching trains will be or is reasonably good, and that the public convenience and necessity would appear to be best served by authorization to cross at grade.

Llewellyn, Howard, Warfield, Dufour, Voorsanger and Farrell avenues are somewhat similar to Twenty-fifth street, except Llewellyn and Howard avenues are oiled and are future secondary highways of the Planning Commission. The next crossing is that of Gould lane, where it is proposed to construct an overhead crossing with a horizontal clearance of 40.5 feet. Gould lane is planned as a primary highway leading to Hermosa and Redondo Beach.

Ripley street, although planned as a secondary county highway leading to Redondo and Hermosa, is at this time not a traveled highway. The order should provide that the authorization to the applicant herein to construct the crossing at grade will not later authorize the county to construct a crossing at grade over applicant's track. Similar provision should be made for other so-called paper streets. Electric street is at this time relatively unimportant.

Adjacent on the east to the proposed overhead crossing of the Pacific Electric at El Nido the Regional Planning Commission plans a major highway to be the main road to Redondo Beach. This road does not now, however, exist upon the ground.

At Hawthorne avenue Applicant's Exhibit "H" shows, in addition to the plans of the overhead structure, the arrangement of the highway at this point. The next crossing, as shown on Applicant's Exhibit "A," that of Dominguez street, will not then be made at grade. Dominguez street is to be turned into Hawthorne avenue and the traffic across the Santa Fe is to pass under the overhead structure of Hawthorne avenue. In this connection a small triangle of ground is necessary at the northeast corner of Dominguez street and Hawthorne avenue to provide a roadway for such diversion. No crossing should, therefore, be authorized at Dominguez street.

The Planning Commission has located three highways between Hawthorne avenue and Cedar avenue, but these do not now exist either as dedicated highways or traveled roadways.

Entering the city of Torrance, Cedar avenue is but little used. Following Cedar avenue is an alley at engineer's station 324.65 and



nother alley at engineer's station 326 plus 10 before Beech avenue is reached; then follows Eighth street, an alley at engineer's station 30 plus 94, then Acacia avenue, then another alley at engineer's station 337 plus 00, then Tenth street. In the original application permission was not asked to cross any of these streets, except Cedar avenue. In the first supplemental application the authorization for grade crossings on these streets just named was made, Exhibit "A" being amended by Exhibit "I" to that extent.

It appears that applicant acquired its right of way before any streets or dedication of streets was made; that its franchise from the city of Torrance does not include permission to construct across these streets; that the applicant believes its title to the land as right of way to be good and that the city of Torrance does not consider that these streets exist at the crossings. Under these circumstances authorization to install crossing at grade should not be made except at Cedar avenue, which is actually traveled.

Redondo boulevard is but little traveled. Applicant has, however, a right of way across this street similar to those streets which have just been discussed. Since it is actually traveled applicant should be permitted to install its crossing.

Carson street, in the city of Torrance, is the main highway leading to the oil fields and Redondo. The Automobile Club of Southern California protested a grade crossing at this location and submitted the following traffic count:

Saturday, August 4, 1923—7.15 a.m. to 9.00 p.m.	2963 vehicles
Sunday, August 5, 1923—7.00 a.m. to 9.00 p.m.	3883 vehicles
Monday, August 6, 1923—7.10 a.m. to 9.00 p.m.	2837 vehicles

The city of Torrance, on the other hand, in line with applicant's proposal to establish a freight station easterly of and adjacent to this street, stated very positively that it wished the freight station located at this point; that it was the most suitable location and, therefore, wished that the crossing be made at grade. The line as located crosses all of the city streets of the city of Torrance at grade and it is the position of the city that, because of the topography, it would be impracticable to provide grade separation and still give the city access to the freight station and yards. The point was made that Torrance was an industrial city in need of additional transportation facilities and that it had assisted in every way in the location of the proposed railroad through the city. It was not shown that the public convenience and necessity demand separation of grades at this point. Applicant made application for two tracks across Carson street but the evidence indicates there is no necessity for the siding. An automatic flagman should be installed for the protection of this crossing.

Washington avenue, an alley between Washington avenue and Apple avenue, Apple avenue and an alley between Apple avenue and Arlington avenue, are unimportant streets, and, while open to traffic, very little used. The city of Torrance was asked if it would be agreeable to closing the last two mentioned alleys and this matter was to be taken up with the board of trustees. At this time the city has not communicated with the Commission, but there seems to be no necessity for the maintenance of public crossings at these alleys and earnest consideration of vacation by the city with a view to improving the public safety is suggested.

Arlington avenue is a well traveled, paved street, being one of those at which the Automobile Club of Southern California protests the installation of a crossing at grade. The club submitted the following census of vehicular traffic:

Saturday, August 4, 1923—7.28 a.m. to 8.45 p.m.-----	3252 vehicles
Sunday, August 5, 1923—7.00 a.m. to 9.00 p.m.-----	3939 vehicles
Monday, August 6, 1923—7.00 a.m. to 9.00 p.m.-----	3328 vehicles

The road is eighty feet wide at the point of crossing and has lately been improved with concrete curbs and pavement for a width of approximately fifty feet. The surrounding territory is generally level. The city of Torrance takes the same position with respect to a grade crossing at Arlington avenue as it did for a grade crossing at Carson street. The evidence does not warrant a separation of grades at this point at this time. The franchise granted by the city of Torrance provided that the applicant should install automatic flagmen, which is also recommended by our engineer.

An alley at engineer's station 399 plus 73 and Lincoln avenue are the next two crossings and both unused and untraveled highways. Two Hundred Thirtieth street is an unimproved dirt street but little used. Next is an alley between Two Hundred Thirtieth street and Olive street and then a crossing over one end of Olive street. These two streets, like the two alleys above mentioned, should be vacated if possible, at the point of crossing, and it is expected that the city of Torrance will, in conformity with the understanding reached at the hearing, advise the Commission what action it has taken with respect to such vacation. Neither are open to travel. The Long Beach and Redondo road is an oiled street of moderate importance.

Leaving the city of Torrance, the next crossing is that of the Pacific Electric Railway and immediately adjacent to the railway right of way on the east is Normandie avenue, in the unincorporated portion of Los Angeles County. Both railroad and the highway are proposed to be crossed overhead. Applicant's Exhibit "J" is a detail plan of both crossings and aside from the objection made by the Pacific Elec-

ric, as hereinbefore mentioned, there appears to be no opposition to the installation of these overgrade crossings according to this plan.

After leaving Normandie avenue the amended location turns to the east, instead of to the south, as in the original application, and from this point on the crossings are shown on Applicant's Exhibits "L," "M," and "N."

The first crossing on the amended location is the Wilmington and Redondo Beach road, which the Regional Planning Commission intends as a connection to Figueroa street. At present this road is only of little importance with but a limited amount of travel. The view is clear in all directions.

At Main street, sometimes known as Wilmington boulevard, it is proposed to cross overhead, as suggested by our engineer, with a ninety-foot span, which will entirely clear the street, which at this point is eighty feet in width. Main street is the principal automobile highway between the city of Los Angeles and Los Angeles harbor and carries an extremely heavy traffic. Applicant was to file detailed plans of this structure but this has not yet been done. After submission of these plans, a supplementary order can be made.

The next crossing is a ten-foot alley at engineer's station 570 plus 00. The track is fifty feet north of the present southerly end of the alley and it appears that if the county of Los Angeles were willing to vacate the alley there would be no necessity for the establishment of a grade crossing. There is no evidence of vehicular traffic.

Panama street and Fries street are dedicated streets not open to public travel at the points of crossing. The surrounding territory is apparently level and the view is clear in all directions.

Canal street is open across the proposed line, but very little used. It is a level, unimproved, dirt street, with a clear view in all directions. The Regional Planning Commission advises that it has planned to extend South Park avenue in the city of Los Angeles to Canal street to form one of the main arteries to the harbor in the city of Los Angeles.

The crossing at Broad street is similar to that of Canal street except that it is not proposed as one of the major highways of the county. There is next an alley in Tract No. 1855, which is an old subdivision with not more than one dwelling. While the alley is open on the ground, there is no travel over it. The county of Los Angeles was asked if it was willing to close this alley, but at this time the Commission has not heard from the board of supervisors as to what action, if any, has been taken. It would appear that there is no necessity in the establishment of a grade crossing at this point, and it is hoped that the county can vacate the alley as is necessary. The crossing at East street is similar to that of Broad street.

Wilmington avenue is an oiled street, at present in poor condition, but carrying a rather heavy traffic. The Regional Planning Commission proposes to connect this highway with Central avenue in the city of Los Angeles as another main highway between the city and the harbor. The territory in the vicinity of the crossing is practically flat, and the view is unobstructed in all directions.

Reyes street is crossed twice, once by the main line extending southerly and again by the easterly leg of a wye. Reyes street is a dedicated street not traveled at this time. The line terminates just north of L street in the city of Los Angeles and adjacent to McFarland avenue so there are no crossings within the city of Los Angeles.

Considerable evidence was introduced as to the crossing of Anaheim street, the principal street between Wilmington and Long Beach, but since this matter is not before the Commission at this time, and since the exhibits indicate that this crossing is proposed to be installed by the Municipal Terminal Railway of the city of Los Angeles, this crossing need not be discussed further.

The Interstate Commerce Commission has granted applicant a certificate of public convenience and necessity authorizing the construction of the proposed railroad. The Inglewood and Redondo road crossing is the first crossing so that unless authorization of a temporary grade crossing is made, construction of the railroad will be more or less hampered and retarded. With this in mind, the order should provide for a temporary grade crossing of Inglewood and Redondo road for use until the subway can be installed.

As hereinafter noted, applicant's third supplemental application asks authority to construct several grade crossings on a proposed spur track off the main line but since applicant has not yet received a franchise from the county of Los Angeles authorizing the construction of these crossings no order will be made at this time. When such franchise has been granted and filed with the Commission this matter may be covered in a supplementary order.

The following form of order is recommended:

#### ORDER.

The Santa Fe and Los Angeles Harbor Railway Company having applied to the Commission for permission to construct its line of railroad at grade across certain streets, alleys and roads in the county of Los Angeles and in the city of Torrance, and to construct its line of railroad at separated grades over certain other highways in the county of Los Angeles and over certain lines of electric railway of Pacific Electric Railway Company in the county of Los Angeles, and to construct a spur track at grade across certain other public highways in the county of Los Angeles, all as hereinafter indicated, public

56-24801

hearings having been held, the matter being under submission and ready for decision;

*It is hereby ordered*, that Santa Fe and Los Angeles Harbor Railway Company be and it is hereby authorized to construct a single track at grade across the following public highways, namely, Twenty-fifth street, Llewellyn avenue, Howard avenue, Warfield avenue, Dufour avenue, Voorsanger avenue, Farrell avenue, Ripley street, Electric street, Wilmington and Redondo road, alley at engineer's station 570 plus 00.2, Panama street, Fries street, Canal street, Broad street, alley between Broad and East streets, East street, Wilmington avenue, Reyes street (main line crossing), Reyes street (wye track crossing), all in the unincorporated portion of Los Angeles county; Cedar street, Redondo boulevard, Carson street, Washington avenue, alley between Washington avenue and Apple avenue, Apple avenue, alley between Apple and Arlington avenues, Arlington avenue, alley between Arlington avenue and Lincoln avenue, Two Hundred Thirtieth street, alley between Two Hundred Thirtieth street and Olive avenue, Olive avenue and Long Beach and Redondo road, all in the city of Torrance, as shown on Applicant's Exhibits "A," "B," "C," "M," and "N," subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said streets, roads and alleys now graded and with grades of approach not exceeding four (4) per cent, except as hereinafter provided, shall be protected by suitable crossing signs and shall in every way be made safe for the passage hereover of vehicles and other road traffic.

(3) Said crossings within the city of Torrance shall be constructed with the top of rails flush with the pavement or road surface.

(4) This order is made upon the express condition that the alley between Arlington avenue and Lincoln avenue, Lincoln avenue, alley between Two Hundred Thirtieth street and Olive avenue and Olive avenue in the city of Torrance, and Ripley street, alley at engineer's station 570 plus 00.2, Panama street, Fries street, alley between Broad street and East street, and Reyes street are not now actually constructed and open to travel at the respective points of crossing and this order shall not be deemed an authorization for the construction of an opening of said streets to public use at grade across said railroad track.

(5) Automatic flagmen shall be installed and maintained for the protection of said Carson street and Arlington avenue crossings. Said

automatic flagmen shall be of a type and installed in accordance with plans or data approved by the Commission.

*It is hereby further ordered*, that those portions of the application herein concerning Dominguez street, two alleys between Cedar avenue and Beech avenue, Beech avenue, Eighth street, alley between Eighth street and Acacia avenue, Acacia avenue, alley between Acacia avenue and Tenth street, and Tenth street, be and they are hereby denied.

*It is hereby further ordered*, that when and if said line of railroad be constructed, applicant be and it is hereby directed to construct said line of railroad at separated grades with Inglewood and Redondo road substantially as shown on Applicant's Exhibit "V," with Gould lane substantially as shown on Applicant's Exhibit "F," with Hawthorne avenue substantially as shown on Applicant's Exhibit "H," with Normandie avenue substantially as shown on Exhibit "J" and with Main street in accordance with plans which hereafter shall have been approved by the Commission, subject to the following conditions, namely:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed with clearances to conform with the Commission's General Order No. 26.

*It is hereby further ordered*, that if and when said line of railroad be constructed the railroad lines of the Pacific Electric crossed at engineer's station 204 plus 19.1 and at engineer's station 483 plus 39.8' shall be constructed substantially in accordance with Applicant's Exhibits "G" and "J," respectively, and subject to the following conditions, viz:

(1) The entire expense of construction and maintenance of said crossings shall be borne by applicant and Pacific Electric Railway Company in accordance with Applicant's Exhibits "K" and "G-X," or as the same may be modified by the agreement hereinafter referred to.

(2) Applicant shall within one hundred and twenty (120) days of the date of this order file with the Commission duly executed agreement with said Pacific Electric Railway Company covering the terms of installation and maintenance of said crossings.

*It is hereby further ordered*, that pending the installation of a separated grade crossing over said Inglewood and Redondo road applicant be and it is hereby authorized to construct its track at grade across said road at a location hereafter approved by the Commission for the purpose of constructing its line of railroad, subject to the following conditions:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance and removal thereafter, shall be borne by applicant.

(2) No trains, engine, motor or car shall be operated over said grade crossing without first having been brought to a stop.

(3) The authorization hereinafter granted for the installation of aid grade crossing shall lapse and become void ninety (90) days after the effective date of this order whereupon said crossing shall be abolished.

*It is hereby further ordered*, that the authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

*It is hereby further ordered*, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The effective date of this order shall be fifteen days after the making thereof.

Dated at San Francisco, California, this fourteenth day of September, 1923.

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DECISION No. 12614.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF ONE MILLION DOLLARS OF SERIES "B" BONDS.

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Application No. 9361.

Decided September 14, 1923.

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Morrison, Dunne and Brobeck, by H. H. Pfleger, for Applicant.

By THE COMMISSION.

OPINION.

In this application The California-Oregon Power Company asks permission to issue and sell at not less than 94½ per cent of their face value and accrued interest \$1,000,000 of its Series "B" 6 per cent first and refunding mortgage bonds due February 1, 1942, and use the proceeds for the purposes hereafter mentioned.

The California-Oregon Power Company is engaged in the business of generating electrical energy and distributing and selling the same in the counties of Jackson, Josephine, Klamath, Douglas and Lane in Oregon and in the counties of Siskiyou, Shasta and Trinity in California; and in developing, storing, selling and distributing water for domestic, commercial and manufacturing purposes in the city of Klamath Falls, Klamath County, and in the city of Roseburg, Douglas County, Oregon, and in the town of Dunsmuir, Siskiyou County, California.

As of July 31, 1923, the company reports \$4,441,100 of common and \$2,980,700 of 7 per cent preferred stock outstanding. In addition, it reports subscriptions for preferred stock in the amount of \$280,441. Its total stock outstanding and subscribed for amounts to \$7,702,241. As of the same date the company reports outstanding \$3,746,500 of bonds consisting of \$1,953,500 first and refunding 7½ per cent bonds due 1941, \$1,000,000 of first and refunding 6 per cent bonds due 1942 and \$793,000 of underlying bonds.

Subject to their issue being authorized by the Railroad Commission, the company has agreed to sell \$1,000,000 of its 6 per cent Series "B" first and refunding bonds at not less than 94½ per cent of their face value and accrued interest. It asks permission to use the proceeds for the following purposes:

(a) To reimburse its treasury for payments heretofore made on account of the purchase of the property of the Douglas County Light and Water Company and to provide for further payments on account thereof -----	\$600,000 00
(b) To reimburse its treasury for the face value of underlying bonds purchased, paid or redeemed-----	213,000 00
(c) To reimburse its treasury for capital expenditures since March 31, 1923, such expenditures being reported in Exhibit "C"-----	137,000 00
Total -----	\$950,000 00

By Decision No. 12289, in Application No. 9121, the Railroad Commission permitted The California-Oregon Power Company to purchase at a cost of \$600,000 the properties of the Douglas County Light and Water Company. The testimony shows that there has been paid \$195,000 of the purchase price. This payment has been made possible through loans obtained from banks. Applicant asks permission to use \$600,000 of the proceeds obtained from the sale of the bonds to finance the purchase of the properties of the Douglas County Light and Water Company.

The testimony shows that applicant has purchased and retired \$213,000 of underlying bonds at a cost slightly in excess of the face value of the bonds redeemed. In addition, it has expended for plant extensions, additions and betterments to July 31, 1923, \$137,000, against which no bonds have been issued. While applicant asks to



reimburse its treasury because of moneys expended to redeem bonds, and construct extensions, additions and betterments, it is of record that after the company's treasury has been reimbursed the moneys used for such reimbursement will be expended for acquiring and constructing extensions, additions and betterments to applicant's plant and properties.

#### ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue \$1,000,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that The California-Oregon Power Company be and it is hereby authorized to issue and sell at not less than 94 $\frac{3}{4}$  per cent of their face value and accrued interest \$1,000,000 of its first and refunding mortgage 6 per cent bonds due February 1, 1942, and use the proceeds for the following purposes:

(a) To reimburse its treasury for payments heretofore made on account of the purchase of the property of the Douglas County Light and Water Company and to provide for further payments on account thereof -----	\$600,000 00
(b) To reimburse its treasury for the face value of underlying bonds purchased, paid or redeemed-----	213,000 00
(c) To reimburse its treasury for capital expenditures since March 31, 1923, such expenditures being reported in Exhibit "C"-----	137,000 00
Total -----	\$950,000 00

The authority herein granted is subject to further conditions as follows:

1. The California-Oregon Power Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,000. The authority herein granted to issue bonds will expire on December 15, 1923.

*It is hereby further ordered*, that The California-Oregon Power Company be and it is hereby authorized to issue in lieu of said \$1,000,000 of bonds, temporary certificates of like amount, such cer-

tificates to be issued and sold under the same terms and conditions as applicant is herein authorized to issue and sell said \$1,000,000 of bonds.

Dated at San Francisco, California, this fourteenth day of September, 1923.

DECISION No. 12618.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF EIGHT HUNDRED THOUSAND DOLLARS, AND TO SELL THE SAME.

Application No. 9347.

Decided September 15, 1923.

*LeRoy M. Edwards*, for Applicant.

*BRUNDIGE*, Commissioner.

OPINION.

Southern Counties Gas Company of California asks permission to issue and sell at not less than 88 per cent of their face value and accrued interest \$800,000 of its 5½ per cent first mortgage bonds due May 1, 1936.

The company reports that from May 1, 1923, to July 1, 1923, inclusive, it expended for additions to fixed capital the net sum of \$957,748.44. The expenditure is allocated to the several districts as follows:

Orange County District	\$228,967 67
Whittier District	28,442 86
Pomona District	110,820 21
Monrovia District	11,331 01
Long Beach District	147,463 04
San Pedro District	40,130 23
Santa Monica Bay District	135,413 88
Santa Barbara District	63,506 19
Ventura District	156,791 80
General	34,881 46
Total	\$957,748 44

Applicant further reports that prior to May 1, 1923, it expended for fixed capital \$68,182.50 against which no bonds have been issued. Adding the \$68,182.50 to the \$957,748.44 makes a total of \$1,025,930.94 expended, against which applicant has issued no bonds. Because of such expenditure it now asks permission to issue and sell \$800,000 of its first mortgage bonds. It has arranged to sell such bonds at 88 per cent of their face value and accrued interest.

Applicant estimates its capital expenditures for 1923 at \$2,484,295. To July 31, 1923, it has expended, because of additions to its fixed capital, the sum of \$1,630,760.74, leaving the balance of \$850,090.77. As of September 12th applicant reports \$521,241.56 of notes payable

nd \$246,065.62 of accounts payable, making a total of notes and accounts payable of \$767,307.18.

The proceeds obtained from the sale of the bonds will be used to pay indebtedness incurred on account of acquiring and constructing additions and betterments to applicant's plants and properties or pay for properties, additions and betterments hereafter acquired or constructed.

Southern Counties Gas Company of California has an authorized stock issue of \$5,000,000 divided into \$2,500,000 of common and 2,500,000 of 8 per cent preferred. As of July 31, 1923, \$1,500,000 of the common and \$1,249,900 of the preferred was outstanding. As of the same date the company reports a total funded debt of \$8,827,200, consisting of \$7,571,500 first mortgage 5½ per cent bonds due May 1, 1936, \$600,000 second mortgage 6 per cent notes due December 1, 1924, and \$655,700 of 8 per cent collateral trust bonds due December 1, 1930.

I believe that this application should be granted and herewith submit the following form of order:

#### ORDER.

Southern Counties Gas Company of California, having applied to the Railroad Commission for permission to issue \$800,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted subject to the conditions of this order; therefore,

*It is hereby ordered,* that the Southern Counties Gas Company of California be and it is hereby authorized to issue and sell for not less than 88 per cent of their face value and accrued interest \$800,000 of its first mortgage 5½ per cent bonds due May 1, 1936.

The authority herein granted is subject to the further conditions, as follows:

1. The proceeds obtained from the sale of the bonds shall be used by applicant to reimburse its treasury on account of moneys expended prior to July 31, 1923, for extensions, additions and betterments to its plants and properties. After the proceeds have been used for such purposes they shall be expended for paying indebtedness incurred on account of acquiring or constructing such extensions, additions and betterments or to finance the cost of acquiring and constructing extensions, additions and betterments to applicant's plants and properties installed subsequent to July 31, 1923.

2. Applicant shall keep such records of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month,

a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$800. The authority to issue bonds will expire on December 31, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of September, 1923.

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DECISION No. 12619.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TO THE NATIONAL CITY COMPANY (A NEW YORK CORPORATION) TEN MILLION DOLLARS FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "C."

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Application No. 9371.

Decided September 17, 1923.

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*C. P. Cullen*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Pacific Gas and Electric Company asks permission to issue and sell at not less than 92 per cent of their face value and accrued interest \$10,000,000 of 5½ per cent first and refunding mortgage gold bonds due December 1, 1952. Subject to their issue and sale being authorized by the Railroad Commission, the company has sold such bonds to the National City Company.

In its Exhibit "D" applicant reports estimated net construction expenditures as of July 31, 1923, amounting to \$22,109,961.73. This estimated expenditure was allocated as follows:

Electric department -----	\$6,213,960 09
Gas department -----	2,579,733 16
Miscellaneous -----	866,722 07
Mount Shasta Power Corporation -----	12,131,247 49
California Telephone and Light Company -----	22,991 15
Sierra leased properties -----	295,307 77
Total -----	\$22,109,961 73

Applicant through stock ownership controls both the Mount Shasta Power Corporation and the California Telephone and Light Company. It operates under lease the properties of the Sierra and San Francisco

Power Company. From time to time it is reimbursed for any moneys expended for permanent plant extensions, additions and betterments on the Sierra and San Francisco Power Company properties.

Applicant does not at this time ask permission to expend any of the proceeds obtained from the sale of the bonds. It agrees to deposit such proceeds with the trustees under its first and refunding mortgage dated December 1, 1920, or one of them, or in a bank or banks, or with the National City Company. It has submitted its Exhibit "D," together with other testimony, for the purpose of showing that it is necessary for it to issue and sell the \$10,000,000 of bonds.

The order herein will provide that none of the proceeds obtained from the sale of the bonds may be expended except for such purposes as the Railroad Commission will authorize in a supplemental order or orders.

Pending the delivery of the definitive bonds, applicant asks permission to issue temporary bonds.

#### ORDER.

Pacific Gas and Electric Company, having applied to the Railroad Commission for permission to issue \$10,000,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant and that this application should be granted as herein provided;

*It is hereby ordered*, that the Pacific Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 92 per cent of their face value and accrued interest \$10,000,000 of 5½ per cent first and refunding mortgage gold bonds due December 1, 1952.

*It is hereby further ordered*, that all the proceeds obtained from the sale of the bonds shall be deposited by applicant with the trustees under applicant's first and refunding mortgage dated December 1, 1920, or one of them, or in a bank or banks, or with the National City Company, and may, when and as authorized by the Commission in subsequent orders, be used to pay for the acquisition and construction of additional property or for such other purposes as the Railroad Commission may authorize.

*It is hereby further ordered*, that pending the delivery of the definitive bonds, applicant may issue in lieu of such definitive bonds, temporary bonds; such temporary bonds to be issued and sold under the same terms and conditions as applicant is herein authorized to issue and sell definitive bonds.

The authority herein granted is subject to further conditions as follows:

1. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$5,500. The authority to issue bonds will expire on February 1, 1924.

Dated at San Francisco, California, this seventeenth day of September, 1923.

### DECISION No. 12620.

IN THE MATTER OF THE APPLICATION OF THE PASADENA ELECTRIC EXPRESS COMPANY FOR AN ORDER GRANTING PERMISSION TO ISSUE NOTES PAYABLE AT PERIODS OF MORE THAN TWELVE MONTHS AFTER DATE.

Application No. 9352.

Decided September 17, 1923.

W. H. Archdeacon, for Applicant.

BRUNDIGE, *Commissioner*.

### OPINION.

Pasadena Electric Express Company asks permission to issue \$70,000 face value of 7 per cent notes and execute a deed of trust to secure the payment of the indebtedness represented by such notes. It intends to use the money to pay indebtedness and the cost of building a warehouse to which reference will hereafter be made.

Pasadena Electric Express Company was organized in May, 1919, with an authorized capital stock of \$75,000. Of this stock \$25,000 has been issued and is outstanding. Applicant is engaged in the business of transporting freight in and between Los Angeles, South Pasadena, Alhambra and Pasadena.

For the years 1922 and 1921 applicant reports revenues and expenses as follows:

Item:	1922	1921
Charges for transportation-----	\$59,989 65	\$49,635 71
Other revenues from operation-----	743 17	222 60
Total operating revenues-----	\$60,732 82	\$49,858 31
Operating expenses -----	46,733 60	41,829 85
Operating income -----	\$13,999 22	\$8,028 46

Deductions:		1922	1921
Rent	-----	\$5,162 39	\$5,322 69
Miscellaneous taxes	-----	1,222 20	1,046 20
Interest on unfunded debt	-----	1,074 19	570 00
Miscellaneous	-----	1,437 71	-----
Total deductions	-----	<u>\$8,896 49</u>	<u>\$6,938 89</u>
Net income	-----	\$5,102 73	\$1,089 57

The petition shows that applicant is the owner of real estate known 453 Commercial street, Los Angeles, such property now being used its Los Angeles terminal. The property is said to have a 100-foot frontage on Commercial street and extends back 200 feet to Aliso street, on which street it also has a 100-foot frontage. It is the intention of applicant to construct on said property a Class "A" four-story warehouse at an estimated cost of \$58,500. The building will be approximately 40 x 125 feet in area and will contain about 20,000 square feet of floor space. It will be constructed by Joseph F. Rhodes, contractor of Los Angeles.

The testimony shows that applicant, subject to the approval of the Railroad Commission, will borrow \$50,000 from the Mortgage Guarantee Company of Los Angeles and \$20,000 from Joseph F. Rhodes. It is his authority to issue to the Guarantee Company a ten-year 7 per cent note, the principal of said note to be paid at the rate of 6 per cent per annum payable semiannually. To Joseph F. Rhodes applicant intends to issue a two-year 7 per cent note, the principal of which will be payable in equal annual installments. The payment of the \$50,000 note to be secured by a first trust deed, the payment of the \$20,000 note by a second trust deed. Copies of these instruments have been filed with the Commission and we find the same to be in satisfactory form.

Applicant is at present indebted to the Union Trust and Savings Bank of Pasadena to the amount of \$11,500. Part of the proceeds which it will obtain through the issue of the notes referred to in this decision will be used to pay the \$11,500 note.

I herewith submit the following form of order:

#### ORDER.

Pasadena Electric Express Company having applied to the Railroad Commission for permission to issue \$70,000 face value of notes, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; and that this application should be granted, as provided in this order; therefore,

*It is hereby ordered*, that Pasadena Electric Express Company be and it is hereby authorized to execute a first trust deed to secure the

payment of a \$50,000 note and to execute a second trust deed to secure the payment of a \$20,000 note, said trust deeds to be substantially in the same form as those filed in this proceeding, provided that the authority herein granted to execute such trust deeds is for this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said trust deeds as to such other legal requirements to which said trust deeds may be subject.

*It is hereby further ordered*, that Pasadena Electric Express Company be and it is hereby authorized to issue a \$50,000 ten-year 7 per cent note and a \$20,000 two-year 7 per cent note, such notes to be issued for not less than par and the proceeds used to pay \$11,500 indebtedness referred to in this application and to pay the cost of constructing the warehouse building described in this application.

The authority herein granted is subject to further conditions as follows:

1. Pasadena Electric Express Company shall keep such record of the issue and sale of notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority to issue the notes will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$70. The authority to issue the notes will expire on December 15, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of September, 1923.



## DECISION No. 12626.

FAIR OAKS IRRIGATION DISTRICT, A PUBLIC CORPORATION,

vs.

NORTH FORK DITCH COMPANY, A CORPORATION.

Case No. 1862.

Decided September 18, 1923.

**WATER UTILITY—IRRIGATION SERVICE—UNAVOIDABLE INTERRUPTIONS.**—A utility should at all times make every effort to prevent interruption of service and to repair leaks and breaks with greatest possible rapidity. Service rendered by North Fork Ditch Company to Fair Oaks Irrigation District is an irrigation service and as such is subject to certain unavoidable interruptions.

*Elliott and Atkinson*, by *F. F. Atkinson*, for Complainant.  
*J. F. Metteer*, for Defendant.

*WHITTLESEY*, Commissioner.

**OPINION.**

In the above entitled complaint Fair Oaks Irrigation District alleges in effect that North Fork Ditch Company, from which the district receives its sole supply of water for irrigation and domestic use, has rendered a service which has been insufficient and subject to frequent interruptions. It is also alleged that defendant has not exercised proper care or supervision of its water system and has failed to keep its ditch in serviceable condition, with the result that frequent leaks and breaks occur which have at times entirely deprived complainant of water. The Commission is asked to compel defendant to maintain and operate its water system in such manner that interruptions in the water supply will be eliminated, and for such further relief as the Commission shall deem just and proper.

A public hearing in this matter was held at Sacramento and the matter is now ready for decision.

North Fork Ditch Company diverts water from the North Fork of the American River by means of a diversion dam located about two miles south of Auburn, in Placer County, and water is carried in an open ditch about 25 miles to the penstock reservoir in Sacramento County. Five and three-quarters miles below the diversion dam is located a small settling basin, covering approximately four acres, the province of which is to clear the water of mud and silt. Twenty miles below the intake is a small storage reservoir covering about twenty acres and having a capacity of 150 acre-feet. The penstock reservoir is of small capacity, covering approximately one acre and holding from six to seven acre-feet of water. From this reservoir a 28-inch steel pipe line extends south a distance of two and one-half miles to a connection with the distribution pipe system owned by Fair Oaks Irrigation District. Seventy-seven consumers are served individually from the main

ditch and laterals, and service is also given to three companies or districts, including complainant, which operate their own distribution systems.

The capacity of the main ditch at the upper end is approximately 2300 inches and about 1900 inches can be delivered at the penstock reservoir. Concrete lining of a total length of over 23,000 feet has been placed in the ditch, of which 14,121 feet is located in the upper five miles in which the greatest danger of ditch breaks occurs.

The evidence indicates that during the early part of 1922, when the lower portion of the ditch was being cleaned and widened, complainant suffered interruption of water supply. It was also shown that during the months of June, July and August of the same year the water supply was either cut off or reduced on account of leaks or breaks in the ditch.

Evidence submitted by defendant indicates that water was shut off for repair of breaks in the ditch as follows:

Friday, June 23, 1922, at 11 o'clock a.m., ditch broke at mile post 2 plus 221 feet. Water turned back into ditch on Sunday, June 25, at 2 o'clock p.m.

Monday, August 7, 1922, at 5 o'clock a.m., ditch broke at mile post 2. Water turned back into ditch on Wednesday, August 9, at 11 o'clock a.m.

Friday, August 18, 1922, at 10 o'clock a.m., ditch broke at mile post 2 plus 700 feet. Half supply of water turned back into ditch Sunday night, August 20. Entire supply turned back into ditch by Monday, August 21, at noon.

Evidence was submitted by complainant to the effect that the water supply was so reduced on nine different occasions during June, July and August, 1922, that irrigation use had to be discontinued. An examination of the Venturi meter flow sheets on complainant's own meter indicates that on June 18th and 19th deliveries of water to the Fair Oaks Irrigation District averaged approximately 70 per cent of the maximum quantity of 760 miner's inches to which complainant is entitled under its annual application for water, and from June 25th to 28th, inclusive, averaged about one-half of this maximum quantity. During the month of July the average daily delivery was approximately two per cent in excess of the maximum quantity to which complainant is entitled, and on only one day was there an appreciable under delivery. At no time during either June or July was the water supply so diminished as to compel a reduction in domestic use. From August 6th to 12th, inclusive, the average deliveries were about 55 per cent of the maximum, with an average delivery for two days of slightly less than 25 per cent. From August 20th to 27th, inclusive, deliveries averaged approximately 60 per cent, with three days on which the average daily deliveries were 25 per cent of the maximum quantity of 760 inches.

Serious interruption of service during 1922, subsequent to the work of cleaning and widening the lower end of the ditch in the early part of the year, occurred on one occasion in June and two periods in

August; all caused by serious breaks in the upper end of the ditch. testimony indicates that when breaks are repaired and water again turned into the canal several days elapse before the full head of water reaches the penstock reservoir and irrigation service on complainant's distribution system can be resumed in its entirety. The need of reservoirs for the storage of water near the lower end of the ditch is therefore extremely vital if irrigation service is to continue without interruption.

The evidence also indicates that in spite of every precaution which can be taken breaks in this ditch can not be wholly prevented except by the lining of a large portion of the canal with concrete at a great expense, which is not justified in its entirety at present.

Complainant sought to establish that due diligence had not been exercised in the repair of breaks in its ditch. The evidence shows that defendant has caused lumber and other material to be stored at convenient locations so that flumes can be constructed with the least possible delay to replace sections of the earth ditch which are washed out as a result of breaks. It was also shown that the last break which occurred in 1922 was repaired promptly and expeditiously, and in a manner satisfactory to complainant. Concerning the two previous breaks which occurred during the irrigating season of 1922 the record is not so clear, complainant alleging that defendant was dilatory in the repair of the ditch and that the work should have been carried on continuously until completed. Defendant, on the other hand, contended that every effort had been made to expedite the work but that it had become impracticable to carry on the construction of flumes after nightfall as was advocated by complainant.

The evidence submitted in this proceeding and the rates established by the Commission for this utility clearly indicate that the service ordered by defendant is an irrigation service and such domestic use of water as occurs is entirely incidental and subordinate to the irrigation use. It is also apparent that some interruption of irrigation service on a system of this character can not be avoided and must be expected. Complainant can avoid interruption of domestic service on its distribution system by the installation of a reservoir of sufficient capacity to furnish a supply of water for household use and for fire protection when the ditch is out of commission, or as an alternative measure of protection can insist that consumers served by its distributing system install tanks for their individual use. This latter plan has been put into effect by some of defendant's consumers in the vicinity and has been very successful in its operation. Complainant should investigate fully the possibility of securing some storage at or near the lower end of the ditch, for the irrigation water supply, and, if practicable sites can be discovered, a satisfactory agree-

ment for the construction of reservoirs could undoubtedly be reached between the parties.

Complainant asserts that, prior to the annual cleaning of the ditch and also in case of breaks, defendant has not given sufficient notice that arrangements could be made for the orderly handling of the diminished water supply. The evidence shows, however, that sufficient notice has been given, although in some instances it did not reach consumers promptly. It is, of course, not possible to give notice instantly of all breaks, but every effort should be made by defendant to inform consumers of accidents or other conditions which may cause a reduction or cessation of water supply.

It is self-evident that a utility should at all times make every effort to prevent interruption of service and to repair leaks and breaks in its ditch with the greatest possible rapidity but no general rules or regulations covering this phase of defendant's methods of operation are believed necessary at this time. It is recommended that continued lining of the ditch be continued at the rate of at least one-half mile per year until all sections where danger of breaks exists have been lined.

The following form of order is submitted:

#### ORDER.

Fair Oaks Irrigation District, a public corporation, having made complaint against North Fork Ditch Company, a corporation, a public hearing having been held thereon, the matter having been submitted to the Commission and the Commission being now fully informed in the matter:

It is hereby found as a fact that the service rendered by North Fork Ditch Company, a corporation, to Fair Oaks Irrigation District, a public corporation, is an irrigation service and as such is subject to certain unavoidable interruptions.

Basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighteenth day of September, 1923.

## DECISION No. 12628.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR PERMISSION TO CHANGE ITS REEDLEY-PINEHURST LINE FROM A COMBINATION SUBURBAN AND TOLL LINE TO A TOLL LINE AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH EXCHANGES AT SQUAW VALLEY, DUNLAP AND PINEHURST.

Application No. 9103.

Decided September 19, 1923.

*Terkel*, for Applicant.

*W. Tackaberry*, for the people of Squaw Valley and The Cedars.

*Dickson F. Maddox*, for H. P. Harralson and General Grant Park Telephone Company.

*More*, Commissioner.

## OPINION.

Reedley Telephone Company, applicant in this proceeding, owns and operates a telephone line extending from Reedley through Squaw Valley to Dunlap. Stations at Pinehurst, The Cedars, Cedarbrook, Miramonte and Camp Miramonte are also served over this line by means of connecting privately owned lines.

This line has, for a number of years, been operated as a combination suburban and toll line. All stations on this line are connected directly to the line and can ring the Reedley operator directly and all regular subscribers are enjoying unlimited switching privileges with other subscribers of the Reedley system for the payment of the monthly flat rate. Nonsubscribers, however, are charged a toll for the use of the line for each call completed.

Applicant now proposes to operate this line only as a toll line and to open exchanges at Pinehurst, Dunlap and Squaw Valley. The existing subscribers will in this manner then be served from some one of these exchanges.

Claiming that the service rendered was unsatisfactory, Mr. Kincaid and some others of the sixteen subscribers on this line, on May 13, 1921, filed formal complaint (Case No. 1599) against the Reedley Telephone Company and asked the Commission to issue its order requiring the Reedley Company to put the line in repair and make arrangements regarding the reconstruction and maintenance of subscribers' branch lines.

In its Decision No. 9890 (20 C. R. C. 1032) the Commission ordered the Reedley Company to reconstruct the main line in accordance with standards as set forth by it and to maintain the main and all branch lines. It also authorized the Reedley Company to disconnect branch lines not reconstructed according to standard, and to charge a monthly flat rate for residence telephone service, wall set, of \$4. As a result of

this decision, twelve of the sixteen subscribers immediately discontinued service, leaving four subscribers on the line.

A public hearing in the present application was held in Reedley on August 7, 1923. It was brought out at this hearing that the principal objection on the part of subscribers to the granting of applicant's petition was the fear on their part that the service to be rendered under the proposed arrangement would be very inferior to that they are at present receiving. Little objection was expressed concerning proposed changes in rate. Applicant set forth the abnormal expense of maintaining the line, due to the mountainous condition of the country through which most of it is located, and pointed out the small revenue received under the present arrangement of rates and service.

It appears that, considering the investment in this mountain line and the comparatively high expense of maintaining it and the low revenue received from it, some action should be taken to relieve other subscribers who have little interest in this line from carrying such a large portion of its burden. This might be done by continuing service as at present with direct connection to Reedley and raising the flat rate to subscribers to a point where revenues would be commensurate with expenses. The almost inevitable result of such a change, however, would be the discontinuance of service by those subscribers that are now on the line and a decided curtailment in the usefulness of the telephone service. In fact, the present rate places the service where it is not available to some. The alternate method, the adoption of which has been asked by applicant, contemplates the opening of several exchanges and connecting subscribers with these exchanges. Under this arrangement the subscriber is entitled to unlimited switching to other subscribers connected to the same exchange and is required to pay a toll for each connection to toll stations or subscribers in other exchanges. This has the tendency of placing the burden on the heaviest users and at the same time making it possible for the small user to have the service available, if needed, for the payment of a comparatively low flat monthly rate, thus greatly increasing the usefulness of the service in the several communities. It appears that the greater portion of the public would be better served under this arrangement and I recommend that the application be granted.

The telephone rates, as contained in the order following, assume that the exchanges will be agency operated and that applicant will make every reasonable effort to render the best possible service.

Applicant has asked that the subscribers on the line between Pinehurst and Cedarbrook be allowed a toll rate from Dunlap rather than Pinehurst on account of ownership of the line between Dunlap and Pinehurst by these subscribers. If this were done a preferential rate would be established which I do not believe should be permitted.

applicant may pay the owners of this portion of the line such compensation as may be proper, but all subscribers should be charged similar rates for similar service without discrimination.

Applicant has also asked, in its proposed rates, that farmer line subscribers own and maintain their lines to the central offices of the proposed exchanges. Inasmuch as it is assumed that it is the intention of applicant not to permit farmer line stations within its primary rate areas, it would be a matter of good practical policy for applicant to own and control all facilities within its primary rate areas for providing service to farmer lines. I recommend therefore that applicant be required to provide facilities for rendering farmer line service from a switchboard to the primary rate area boundaries.

I submit the following form of order:

#### ORDER.

Reedley Telephone Company, having applied to the Railroad Commission for permission to change its Reedley-Pinehurst line from a combination suburban and toll line to a toll line and for an order declaring that public convenience and necessity require the establishment of exchanges at Squaw Valley, Dunlap and Pinehurst, a public hearing having been held, the matter submitted and being now ready for decision:

The Railroad Commission hereby finds as a fact that applicant's Reedley-Pinehurst line should be changed from a suburban and toll line to a toll line, that public convenience and necessity require the establishment of exchanges at Squaw Valley, Dunlap and Pinehurst and that the rates and charges as set forth in Exhibit "A" attached hereto are just and reasonable rates to be charged and collected by Reedley Telephone Company for exchange, toll and telegraph service. Basing its order on the foregoing finding of fact and on other findings of fact contained in the opinion which precedes this order;

The Railroad Commission of the State of California hereby declares at public convenience and necessity require Reedley Telephone Company to establish telephone exchanges at Squaw Valley, Dunlap and Pinehurst; and

*It is hereby ordered*, that Reedley Telephone Company shall:

1. Establish telephone exchanges at Squaw Valley, Dunlap and Pinehurst on or before October 31, 1923.
2. Operate the so-called Reedley-Pinehurst line on and after November 1, 1923, solely as a toll line.
3. Discontinue suburban service now rendered from the so-called Reedley-Pinehurst line on October 31, 1923, at 12 o'clock midnight.

4. Establish a line running due east and west bisecting a straight line connecting Pinehurst and Miramonte, as the southerly boundary of the Pinehurst exchange.

5. Charge and collect the rates and charges for exchange, toll and telegraph service rendered on and after November 1, 1923, as set forth in Exhibit "A," attached hereto.

6. File with the Railroad Commission on or before October 1, 1923, the rates and charges as set forth in Exhibit "A," attached hereto.

7. File with the Railroad Commission on or before October 1, 1923, rates, rules and regulations governing exchange, toll and telegraph service.

8. Provide facilities from its central office to the boundary of the primary rate area at each of the exchanges, Squaw Valley, Dunlap and Pinehurst, for each farmer line circuit built to that point whose owners desire service.

9. Notify, in writing, not later than September 24, 1923, each and every subscriber at present served by the Reedley-Pinehurst line, that a change in service is to be made on October 31, 1923, and include with such notice a schedule of exchange rates for various classes of service rendered on and after November 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of September, 1923.

### EXHIBIT A.

#### Exchange Service—Schedule No. A-1.

##### *General Service.*

Applicable to individual and party line flat rate service within the primary rate areas of Squaw Valley, Dunlap and Pinehurst exchanges. The primary rate area of each of these exchanges includes all territory within a one-quarter mile radius from company's central office.

##### *Rate.*

Class of service	Rate per month per station			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
Individual line station-----	\$2 50	\$2 75	\$2 00	\$2 25
Two-party line station-----	2 00	2 25	1 75	2 00
Extension (with or without bell)-----	1 00	1 00	1 00	1 00

Grabaphone equipment \$0.50 per month additional to rate for wall set, all classes of service.

##### *Conditions.*

Company furnishes and maintains all telephone instruments and equipment.



**Exchange Service—Schedule No. A-4.****Mileage Rates.**

Applicable to general service outside the primary rate area of Squaw Valley, Dunlap and Pinehurst exchanges.

<i>Rate.</i>	Business and residence service	Monthly rate per $\frac{1}{4}$ mile or fraction thereof (Air line distance)
Individual line	-----	\$0 50 per station
Two-party line	-----	35 per station

**Conditions.**

The charge for service under rate above is in addition to the regular flat rate charges given under Schedule No. A-1.

**Exchange Service—Schedule No. A-6.****Farmer Line Service.**

Applicable to farmer line service outside the primary rate area.

**Rate.**

	Business	Residence
Rate per year per station	\$6 00	\$3 00

**Minimum Charge.**

The minimum charge is \$15 per year per circuit.

**Conditions.**

(1) The company installs, owns and maintains the necessary central office equipment and service, line facilities to the boundary of the primary rate area, one listing in the directory and a code ring card.

(2) The subscriber installs, owns and maintains at his expense the necessary facilities from the company line at the boundary of the primary rate area to the subscriber's instrument.

(3) The subscriber installs, owns and maintains at his expense his telephone instrument and battery.

**Toll Service—Schedule No. B-1.****General Service.**

Applicable to station-to-station, person-to-person and appointment and messenger toll service charges between any two toll stations or exchanges.

**Rate.**

(1) Station-to-station day service.

(a) The following initial period rates applicable to station-to-station toll messages where the distance between the exchanges or toll points does not exceed 40 miles by direct air-line measurement.

For distances more than	But not more than	Initial rate is
0 mile	12 miles	\$0 10
12 miles	18 miles	15
18 miles	24 miles	20
24 miles	32 miles	25
32 miles	40 miles	30

(b) Initial period and overtime period.

Where the initial rate is	The initial period is	The overtime period is
\$0 10	5 minutes	3 minutes
15	5 minutes	2 minutes
20	5 minutes	2 minutes
25	5 minutes	1 minute
30	3 minutes	1 minute

## (c) Overtime rate.

Where the initial rate is	The overtime rate is
\$0 10	\$0 05
15	05
20	05
25	05
30	10

## (2) Person-to-person, appointment and messenger rate and report charge.

*Rate for initial period of three minutes or less.*

Station-to-station day service rates	Corresponding completed person-to-person rate	Corresponding completed appointment and messenger rate	Corresponding report charge
\$0 10	\$0 15	\$0 20	\$0 05
15	20	25	10
20	25	30	10
25	30	35	10

*Rate for periods in excess of the initial three minute period.*

Where the initial rate is	The overtime period is	The overtime rate is
\$0 15	1 minute	\$0 05
20	1 minute	05
25	1 minute	05
30	1 minute	10
35	1 minute	10

(3) Night rates. Station-to-station night rates are the same as station-to-station day rates.

**Telegraph Service—Schedule No. C-1.***General Service.*

Applicable to general telegraph service between any two points on systems.

*Rate.*

Service	Rate
Telegrams.....	30 cents for the first 10 words or less and 2½ cents for each additional word.
Day letters.....	45 cents for the first 50 words or less and 9 cents for each additional 10 words.
Night letters.....	30 cents for the first 50 words or less and 6 cents for each additional 10 words.

**DECISION No. 12630.**

**IN THE MATTER OF THE APPLICATION OF THE LOWER LAKE FARMERS' ASSOCIATED TELEPHONE LINES FOR AN ORDER GIVING PERMISSION TO RAISE MONTHLY DUES OF MEMBERS.**

Application No. 6106.

Decided September 20, 1923.

A. H. Kennedy, for Applicant.

By THE COMMISSION.

**OPINION.**

The Lower Lake Farmers' Associated Telephone Lines, applicant in this proceeding, is an association formed some years ago by several farmer line associations located in the southern part of Lake County to furnish and operate a telephone exchange by means of which members of these farmer line associations could receive exchange service

and they and the public could receive service from points outside this locality. The exchange and all property of the association is located in the town of Lower Lake, situated near to and southeast of Clear Lake.

The Lower Lake Farmers' Associated Telephone Lines is owned by six separately owned and operated farmer line associations as follows:

- (1) Lower Lake and Middletown Farmers' Telephone Association.
- (2) The Morgan Valley Telephone Association.
- (3) Spruce Grove Telephone Association.
- (4) Kelseyville Telephone Association.
- (5) The High Valley Farmers' Telephone Association.
- (6) The Sulphur Banks Telephone Association.

At this time applicant operates a small magneto switchboard and serves about one hundred and seven farmer line stations. Every shareholder of the farmer line associations which own the central association receives not only free service to all stations of the Lower Lake Farmers' Associated Telephone Lines exchange, but also free service to all stations of the Lake County Telephone Association, Lakeport and Blue Lakes Telephone Association and Upper Lake Farmers' Telephone Association. Nonsubscribers receive this same service on payment of a charge for each call made.

The Lower Lake and Middletown Farmers' Telephone Association owns a farmer line extending from the Lower Lake exchange to the town of Middletown, Lake County, at which place it connects with the exchange of the California Telephone and Light Company. The fifteen stations on this line may, by code signal, call either the operator at Lower Lake or Middletown. Over this line is routed all long distance service to and from the Lower Lake exchange. The Kelseyville Telephone Association owns a farmer line extending from the Lower Lake exchange to the Kelseyville exchange of the Lake County Telephone Association. By code signals the eighteen stations on this line may call either the Lower Lake or Kelseyville operator. All calls to Kelseyville, Lakeport and Upper Lake are routed over this line.

Applicant in this proceeding requests authority to increase its rates for exchange service to the shareholders of the various associations forming the Lower Lake Associated Telephone Company.

A public hearing in this matter was held at Lakeport on March 6, 1923, before Examiner Satterwhite.

Applicant submitted no appraisal of its property. Mr. F. M. Casal, assistant engineer of the Commission, made an inventory and appraisal of applicant's property, the results being set forth in the Commission's Exhibit "A." The historical reproduction cost new as

of October 1, 1922, of the properties as found by Mr. Casal is \$515 and this value less depreciation is \$338.

Only minor additions will be made in the immediate future and the amount of \$550 will be taken as the reasonable rate base in the proceeding.

Applying applicant's proposed rate to the service received by the shareholders and including other exchange and toll service for the year commencing March 1, 1923, should result in a total revenue of \$811. Expenses for this same period are estimated as \$790, which will leave a balance of \$27.

It is obvious that the association will earn only a small amount over and above operating expenses. However, applicant has never intended to operate at a profit, and considering the grade of service rendered we believe that at this time the increase in the amount asked for should be granted.

At the hearing criticism of the Lake County telephone service was expressed, especially that between Lower Lake exchange and the Middletown exchange of the California Telephone and Light Company. Opinion was expressed that if The Lower Lake Farmers' Association Telephone Lines would construct a substantial metallic toll line between these two points the service could be furnished satisfactorily.

An investigation of service conditions in Lake County was made by the Commission's engineering department in connection with this application. It was found that in four towns and cities, namely, Lower Lake, Kelseyville, Lakeport and Upper Lake, telephone associations are furnishing the only exchange telephone service available except that the California Telephone and Light Company operates a small exchange in Lakeport. Each of these associations furnishes to its shareholders and subscribers free service to all other stations of the association above named, when such service is usable, and furnishes to the public in general similar service at message rates. These message rates are not standard or uniform. In some cases the associations do not own the lines over which they transmit their calls to stations in other cities; the associations while in other cases the trunk lines are association owned and operated.

Each association arranges its operating hours without regard to the hours of service of the other associations so that it has resulted that the hours during which all exchanges have operators on duty at the same time are limited, thus limiting the hours during which any station has service available to all other stations of the various associations and no association is fully advised of the hours of service of the others.

There is no uniformity in station equipment, line construction, central office equipment or operation.

The properties of the associations are generally poorly maintained and the transmission over some short lines is very poor and over long line connections through one or more connecting exchanges is very frequently impossible.

We are of the opinion that the class of service which is now being furnished by the above named associations will not long be adequate for these communities in view of their present growth. It appears that the only adequate solution of this problem is through the combination of ownership of the telephone facilities of these four organizations. If this is done, the combined organization would then be in position to employ some one skilled in telephone work who would be able to place the system in condition to render a good grade of service at the least expense to telephone users. The first step in this plan would be the acquiring of all the property used in providing telephone service from the Lower Lake exchange from the shareholders of the farmers' lines and the centralizing of the responsibility of the maintenance of this property.

On account of the complications and difficulties which exist in furnishing telephone service under the present system of management and operation, adequate service can not be expected in the territories served by these associations until some such changes as outlined above are made.

#### ORDER.

The Lower Lake Farmers' Associated Telephone Lines having made application to the Railroad Commission for an order granting it permission to increase rates for exchange service, a public hearing having been held and the matter having been submitted and now ready for decision, and it appearing to the Railroad Commission that the rates charged by applicant are unjust and unreasonable rates in so far as they differ from the rates herein authorized and the rates herein authorized are just and reasonable rates; and

Basing its order on the foregoing finding of fact and the findings of fact set forth in the opinion preceding this order;

*It is hereby ordered*, that The Lower Lake Farmers' Associated Telephone Lines be and it is hereby authorized to charge and collect the following rates for exchange service to shareholders rendered on and after October 1, 1923, providing said rate is filed with the Railroad Commission on or before September 29, 1923.

#### *Business or Residence Service to Shareholders.*

	Rate per month
Party line service, instrument owned and maintained by subscriber, per station -----	\$0 50

Dated at San Francisco, California, this twentieth day of September, 1923.

DECISION No. 12631.

IN THE MATTER OF THE APPLICATION OF THE LAKEPORT AND  
BLUE LAKES TELEPHONE ASSOCIATION FOR PERMISSION  
RAISE TELEPHONE RATES.

Application No. 8592.

Decided September 20, 1923.

*William Morris*, for Applicant.

BY THE COMMISSION.

OPINION.

Lakeport and Blue Lakes Telephone Association, applicant in this proceeding, operates a small magneto exchange in the city of Lakeport, county seat of Lake County, and furnishes service to about 230 subscribers in Lakeport and vicinity. Farmer line service is provided residents of the town of Finley and surrounding territory.

The association owns jointly, with Upper Lake Farmers' Telephone Association, three trunk lines between its Lakeport exchange and exchange of the Upper Lake Farmers' Telephone Association at town of Upper Lake. A fourth trunk line between these points owned in its entirety by the Lakeport Association. The association connection with the exchange of Lake County Farmers' Telephone Association at Kelseyville over three lines in the ownership of which has no interest.

Applicant claims that its present rates are inadequate to properly maintain and operate the system and desires an increase in rates in order that an improved service may be given.

A formal hearing in this proceeding was held March 7, 1923, at Lakeport before Examiner Satterwhite.

No inventory or appraisal of its property was submitted by applicant. It accepting an inventory and appraisal made and submitted by Mr. F. M. Casal, assistant engineer of the Commission, as this Commission's Exhibit "A." The historical reproduction cost new of property as of October 1, 1922, as found by Mr. Casal was \$4,863, the same value less depreciation was \$3,214.

Applicant has now in effect the rates as set forth in Table I.

TABLE I.

*Business or Residence.*

Party-line service to stockholders, per station	-----
Party-line service to renters, instruments owned and maintained by subscribers	-----
Party-line service to renters, instruments owned and maintained by association	-----
Farmer-line service, line and instrument owned and maintained by subscriber	-----

The rates which applicant now desires to make effective are shown in Table II.

TABLE II.

*Business or Residence.*

	Rate per year
Farmer-line service to stockholders, per station-----	\$8 00
Farmer-line service to renters, instruments owned and maintained by subscriber, per station-----	10 00
Farmer-line service to renters, instruments owned and maintained by association, per station-----	15 00
Farmer-line service, line and instrument owned and maintained by subscriber-----	3 00

An estimate of revenues and expenses based upon past experience as shown by vouchers, etc., is given in Table III in which three setups are given, namely, under present rates, under applicant's proposed rates and under Commission's proposed rates.

In applicant's present and proposed rates a different rate is made for stockholders and nonstockholders, who own and maintain their instruments. We believe this differential should not exist. Applicant proposes to continue the present farmer-line rate. Since these farmer-line subscribers have available the same service as other subscribers to Lakeport service, including free connections to stations or other Lake County exchanges, we believe that they should bear their share of the expense.

TABLE III.

	Under present rates	Under applicant's proposed rates	Under Commission's proposed rates
Operating revenue -----	\$1,704 00	\$2,001 00	\$2,077 00
Operating expense -----	*1,707 00	*1,724 00	*1,728 00
Net -----	**\$3 00	\$277 00	\$349 00
Depreciation -----	165 00	165 00	165 00
	**\$168 00	\$112 00	\$184 00

\*Includes taxes and uncollectible bills. \*\*Loss.

Under the present rates applicant is not earning sufficient to meet operating expenses. Applying the rates as set forth in the order following should result in a revenue to return applicant slightly more than operating expense as shown in the last column of Table III above.

In the investigation of telephone service in Lake County as furnished by farmer associations, it was found that each subscriber of the association exchanges in the towns and cities of Lower Lake, Kelseyville, Lakeport and Upper Lake was given free service to every other subscriber in these exchanges.

As now furnished, this service is inadequate and unsatisfactory, due to a poor maintenance of lines and equipment of some of these associations, and to the fact that many of the trunk lines between exchanges

are heavily loaded subscribers' lines, and also to a lack of responsibility in the management, operation and maintenance of the properties.

It appears that the centralization of ownership and management of the properties of these associations is the only practical means by which satisfactory service may be rendered, and until such steps are taken the present unsatisfactory service will continue.

#### ORDER.

Application having been made to the Railroad Commission by the Lakeport and Blue Lakes Telephone Association for permission to raise its rates for exchange telephone service, a public hearing in the matter having been held, the matter having been submitted, the Railroad Commission finds that the rates now in effect are unjust and unreasonable rates, and that the rates applicant desires to place in effect are in part unjust and unreasonable rates.

Basing its order on the foregoing finding of fact and the findings of fact set forth in opinion preceding this order;

*It is hereby ordered*, that this application be and it is hereby denied; and

*It is hereby further ordered*, that applicant, Lakeport and Blue Lakes Telephone Association, be and it is hereby authorized to charge and collect the following rates for exchange service rendered on and after October 1, 1923, provided these rates be filed with the Railroad Commission on or before September 29, 1923:

<i>Business or Residence.</i>	<i>Rate per year</i>
Party-line service to stockholders, instrument owned and maintained by stockholder, per station-----	\$10 00
Party-line service to subscribers, instrument owned and maintained by subscriber, per station-----	10 00
Party-line service to subscribers, instrument owned and maintained by association, per station-----	15 00
Farmer-line service, line and instrument owned and maintained by subscriber -----	6 00

Dated at San Francisco, California, this twentieth day of September, 1923.



## DECISION No. 12632.

N THE MATTER OF THE APPLICATION OF W. E. WHITE AND J. A. LIGHT FOR AN ORDER AUTHORIZING W. E. WHITE WATER COMPANY TO EXECUTE A TRUST DEED ON ITS WATER SYSTEM AS SECURITY FOR A LOAN.

Application No. 9338.

Decided September 20, 1923.

lyde Thomas, for Applicant.

Y THE COMMISSION.

## OPINION.

The Railroad Commission is asked to make an order authorizing V. E. White, operating a water system under the name and style of the W. E. White Water Company, to issue a \$2,300 note and to execute deed of trust to secure the payment of such note. The note is payable in monthly installments of \$75 each, the first payment being due on October 7, 1923.

A copy of the deed of trust has been filed in this proceeding and is in satisfactory form.

The Railroad Commission by Decision No. 12400 dated July 27, 1923, in Case No. 1930, authorized W. E. White Water Company to increase the rates for water service. In such decision the Commission directed V. E. White to proceed with due diligence to complete within a reasonable time and in a manner satisfactory to the Railroad Commission, improvements described in Decision No. 9726. It is for the purpose of paying the cost of these improvements, which consist of proper storage facilities, that applicant asks permission to issue a note and to execute a deed of trust.

## ORDER.

W. E. White, doing business under the name and style of the W. E. White Water Company, having applied to the Railroad Commission for permission to execute a deed of trust and to issue a \$2,300 note, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such note is reasonably required by applicant and that this application should be granted, as herein provided; therefore,

*It is hereby ordered*, that W. E. White, doing business under the name and style of W. E. White Water Company, be and he is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding, provided that the authority herein granted to execute a deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has juris-

diction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

*It is hereby further ordered*, that W. E. White, doing business under the firm name and style of W. E. White Company, be and he is hereby authorized to issue at not less than par a note in the sum of \$2,300. The proceeds realized through the issue of the note shall be used for the purpose of paying the cost of the improvements which the Commission by Decision No. 9726 ordered to be installed.

The authority herein granted is subject to further conditions as follows:

1. W. E. White shall keep such record of the issue, sale and delivery of the note herein authorized and of the disposition of the proceeds as will enable him to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority to issue the note and execute the deed of trust will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which minimum fee is \$25.

Dated at San Francisco, California, this twentieth day of September 1923.

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#### DECISION No. 12633.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR APPROVAL OF AN EQUIPMENT TRUST AGREEMENT AND LEASE, AND FOR PERMISSION TO MORTGAGE CERTAIN OF ITS REAL ESTATE AND ADDITIONAL SECURITY THEREFOR.

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Application No. 9301.

Decided September 20, 1923.

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*Read J. Dilworth*, for Applicant.

BY THE COMMISSION.

#### OPINION.

San Diego Electric Railway Company asks permission to enter into and execute an equipment trust agreement and lease and to assume the obligations and undertakings set forth in such equipment trust agreement and lease. It also asks permission to execute and deliver to the First Trust and Savings Bank of San Diego a second mortgage on certain real estate as further security for the payment of the equipment trust certificates and the interest thereon, referred to in this application.

The equipment trust agreement provides for the issue of not exceeding \$712,000 of 6 per cent equipment trust certificates. The certificates nature as follows:

On October 1, 1925-----	\$71,000 00
On October 1, 1926-----	71,000 00
On October 1, 1927-----	71,500 00
On October 1, 1928-----	71,000 00
On October 1, 1929-----	71,500 00
On October 1, 1930-----	71,000 00
On October 1, 1931-----	71,000 00
On October 1, 1932-----	71,500 00
On October 1, 1933-----	71,000 00
On October 1, 1934-----	71,500 00

The equipment trust agreement is being executed to enable the San Diego Electric Railway Company to obtain the use of additional equipment. The equipment consists of 50 double-end, double-truck, four-motor electric street cars to be constructed by the American Car Company, St. Louis, Missouri, and 10 Fageol safety automobile motor coaches to be constructed by the Fageol Motor Company of Oakland, California. The street cars are estimated to cost \$865,000, the motor coaches \$85,000, making a total of \$950,000. Of this cost approximately 75 per cent, or \$712,000, will be financed through the sale of equipment trust certificates; the remaining 25 per cent of the purchase price will be paid through the withdrawal of cash in the company's depreciation fund and through the use of other cash in the company's treasury.

The purchase of the 50 new street cars will enable applicant to retire 75 street cars now in use. E. J. Burns, applicant's assistant general manager, testified that because of the purchase of the new street cars operating expenses will be decreased \$82,000, as follows:

Maintenance of equipment-----	\$5,000 00
Power -----	7,000 00
Platform expense -----	70,000 00

These savings will be possible on account of the type of car body being changed from wood to steel, the elimination of the maximum traction trucks, the substitution of four-motor in place of two-motor equipment and the substitution of one-man operation for two-man operation. The motor coaches represent additional equipment and it is proposed to use this equipment to replace certain street car service on the so-called Old Town car line, and certain portions of the so-called Ocean Beach car line, as set forth in Application No. 9095 filed with the Railroad Commission.

Upon the delivery of the equipment it will be leased to the San Diego Electric Railway Company. The company obligates itself to pay annually to the trustee, First Trust and Savings Bank of San Diego, an amount as rental for the equipment sufficient to pay the interest and the annual payments on account of the principal of the equipment trust certificates. The company further obligates itself to pay all taxes

on the equipment, the cost of executing the trust and to maintain the equipment in good operating condition. It also agrees to pay the difference between the cost of the equipment and the amount realized from the sale of the \$712,000 of equipment trust certificates.

Arrangements have been made for the sale of these certificates at 97 per cent of their face value and accrued interest. The payment of the certificates will be guaranteed by the J. D. and A. B. Spreckels Securities Company. The payment will be further secured by the execution of a second mortgage on certain real estate of the company, such real estate consisting chiefly of the Mission Cliff Gardens.

There has been filed in this proceeding a copy of the proposed equipment trust certificate, a copy of the proposed lease agreement and a copy of the proposed second mortgage, all of which agreements are in satisfactory form.

#### ORDER.

The Railroad Commission having been asked to make an order authorizing the San Diego Electric Railway Company to assume certain obligations under an equipment trust agreement and a lease agreement, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that this application should be granted subject to the conditions of this order;

*It is hereby ordered*, that the San Diego Electric Railway Company be and it is hereby authorized to perform the following acts:

(1) To assume the obligations under the equipment trust agreement and the lease agreement filed in this proceeding relative to the payment of not exceeding \$712,000 of 6 per cent equipment trust certificates, the issue of which equipment trust certificates is hereby authorized, for the purpose of enabling applicant to secure the use of the additional equipment described in the foregoing opinion and in this application.

(2) To execute and enter into an equipment trust agreement, a lease agreement and a second mortgage all substantially and in the same form as the equipment trust agreement, the lease agreement and the second mortgage filed in this proceeding.

The authority herein granted is subject to further conditions as follows:

(a) The equipment trust certificates, which are herein authorized to be issued, shall be sold for not less than 97 per cent of their face value and accrued interest, and the proceeds expended to pay in part the cost of the equipment described in the foregoing opinion and in this application.

(b) San Diego Electric Railway Company shall keep such record of the issue and sale of the equipment trust certificates herein authorized and of the disposition of the proceeds as will enable it to file on or

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re the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

2.) The authority herein granted to issue and sell equipment trust certificates will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$2. The authority to issue and sell equipment trust certificates expires on March 1, 1924.

Witness my hand and seal at San Francisco, California, this twentieth day of September, 1923.

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DECISION No. 12648.

THE MATTER OF THE APPLICATION OF J. J. HUBERT, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SOUTH SHORE DRAYAGE COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT TRUCK SERVICE BETWEEN PORT SOUTH SHORE, SANTA CLARA COUNTY, AND ALL POINTS IN SANTA CLARA COUNTY OVER ALL ROADS AND HIGHWAYS IN SAID COUNTY.

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Application No. 8931.

Decided September 24, 1923.

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*John and Brookman*, by *Frank R. Devlin*, for Applicant.

*John Weston*, for American Railway Express Company, Protestant.

*Ernest H. Robinson*, for Pioneer-Gibson Express and Highway Transport Company, Protestants.

*Carl Mielke*, *E. F. Hull* and *H. W. Klein*, for Southern Pacific Company, Protestant.

THE COMMISSION.

OPINION ON REHEARING.

In the above entitled proceeding the Commission on June 29, 1923, made its order (Decision No. 12297) denying the application for a certificate of public convenience and necessity to operate an automobile line between Port South Shore, Santa Clara County, and points in Santa Clara County. Applicant filed petition for rehearing on July 11, 1923, and the Commission on July 13, 1923, made its order in setting aside its Decision No. 12297 and granting a rehearing for the purpose of receiving additional evidence from applicant and interested parties.

The rehearing was held before Examiner Handford at San Francisco, and the matter was duly submitted following the receipt of evidence and arguments of counsel and is now ready for decision.

The proposed method of operation in conjunction with a steamer service operating between Port South Shore and Pier 5, San Francisco, and a service being proposed from Port South Shore to various points in Santa Clara Valley, is fully set forth in the opinion preceding the

order in Decision No. 12297, and beyond reference to the fact that the steamer line has, since the former hearing, been regularly established and is now operating, requires no discussion in the present opinion.

Witnesses for applicant at the rehearing testified as to advantages accruing by reason of facilities offered for the transportation of shipments of green fruit and canned goods when destined from Santa Clara County points to San Francisco for steamer shipment from such points. Such shipments when in less than carload quantities but in volume exceeding 10,000 pounds being accorded a rate less than that of existing truck lines or rail rates when the local charges at points of origin and destination are considered.

A witness connected with a wholesale grocery at San Jose testified to results secured on a test shipment of canned pineapple from San Francisco to San Jose, the shipment weighing 10,108 pounds and resulting in a saving in cost of transportation, at the rates proposed by applicant, of \$10.07 over the rate that would have been assessed by rail movement and cartage to and from railroad, and of \$7.58 over the rate that would have been assessed by authorized truck lines operating between San Francisco and San Jose.

The rates proposed by applicant offer an advantage to such portions of the public that is able to ship in quantity lots and will enable canneries and packing houses to move shipments of 10,000 pounds and over to San Francisco destinations expeditiously and at a lesser rate than is offered by rail or authorized truck carriers. There is no advantage regarding carload shipments, the rates offered by the rail carriers being lower than those of applicant.

The desire of applicant to establish the proposed service has received the approval of representative business and civic organizations and civic officials of the Santa Clara County communities proposed to be served, as evidenced by testimony of witnesses at the rehearing and resolutions filed in this proceeding.

In view of the fact that a proposed service is offered connecting with an established steamer line service now operating between Porth South Shore and San Francisco, by which through service and rates will be available between San Francisco and various Santa Clara County points, and at rates on quantity shipments which are materially lower than those offered for equivalent quantities by existing rail and truck carriers (the cost of pick-up and delivery being considered) it is our opinion and conclusion that the application should be granted in accordance with the terms and conditions of the following order:

#### ORDER.

A rehearing having been held in the above entitled proceeding, the matter having been duly submitted after receipt of evidence and briefs.

iled by applicant and protestants, and the Commission being now fully advised:

The Railroad Commission hereby declares that public convenience and necessity require the operation by J. J. Hubert, doing business under the firm name and style of South Shore Drayage Company, of an automobile truck line as a common carrier of freight between Port South Shore, Santa Clara County, and Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, San Jose, Cupertino, Saratoga, Los Gatos, Campbell, Alviso, Coyote, Morgan Hill, San Martin and Gilroy over all roads and highways and for a distance of two miles on either side of roads or highways traversed in reaching such communities; and

*It is hereby ordered*, that a certificate of public convenience and necessity be and the same hereby is issued, covering automobile freight transportation by the applicant over the above described routes and subject to the following conditions:

I. The authority herein granted does not cover the transportation of any freight locally in Santa Clara County but is confined solely to the transportation of shipments originating at or destined to the city of San Francisco and received from or delivered to applicant at the teamer landing of the Port South Shore Company at Port South Shore, Santa Clara County.

II. Applicant is hereby required to file his written acceptance of the certificate herein granted and of its terms and conditions within ten (10) days from the date of this order, such acceptance to specify date upon which the operation herein authorized will be commenced, which date shall be not more than thirty (30) days from the date of this order unless such date be extended by a supplemental order of the Railroad Commission.

III. Applicant is hereby required to file a tariff of rates, rules and regulations, in duplicate, and in accordance with the provisions of General Order No. 51 of this Commission, which general order, in so far as applicable, is hereby made a part of the order herein. Rates to be in accordance with those set forth in Exhibit "A" as amended in the application herein and to cover through rates between San Francisco and Santa Clara County points as hereinabove set forth. Tariff to be a joint tariff issued by South Shore Port Company and applicant herein and all necessary concurrences to be filed by participants to such joint tariff. The joint tariff to be filed within fifteen (15) days from the date of this order.

IV. The rights and privileges, authority for which is hereby granted, may not be leased, assigned, transferred, sold or hypothecated unless such lease, assignment, transfer, sale or hypothecation has first received the written approval of the Railroad Commission.

V. No vehicle may be operated under the authority conveyed by this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of September, 1923.

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DECISION No. 12653.

IN THE MATTER OF THE APPLICATION OF THE SOUTHGATE GARDENS WATER COMPANY, A CORPORATION, FOR AN INCREASE IN WATER RATES.

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Application No. 9238.

Decided September 24, 1923.

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*Bradner W. Lee, Jr.*, for Applicant.

*William Hazlett and George L. Hampton*, by *George L. Hampton*, for the City of Southgate.

*George L. Hampton*, for E. F. Sylvester, H. T. Burnham and L. M. Nelson.

BY THE COMMISSION.

OPINION.

This is a proceeding brought by Southgate Gardens Water Company, a public service corporation engaged in the supply and distribution of water for domestic and irrigation use to the residents of the city of Southgate, Los Angeles County.

The application alleges in effect that maintenance and operation expense has been considerably in excess of the revenues received and that the utility is entitled to rates which will yield sufficient revenue to cover maintenance and operation expense, depreciation, and a reasonable return upon the value of the property devoted to the public use. The Commission is asked to establish a just and equitable schedule of rates to be charged for water delivered to consumers.

A public hearing in this matter was held before Examiner Williams at Los Angeles, all interested parties having been duly notified and given an opportunity to appear and to be heard.

This water system was originally installed to aid in the sale of real estate, and was later acquired and is now owned by Southern Extension Company, which in turn organized and incorporated the Southgate Gardens Water Company, now operating this water system as a public utility.

The present rates charged by this utility are extremely low as compared with the rates of other utilities operating in the vicinity, and are as follows:

*Domestic Service.*

From 0 to 3000 cubic feet, per 100 cubic feet.....	\$0 07
Over 3000 cubic feet, per 100 cubic feet.....	05



*Monthly Minimum Charge.*

For  $\frac{5}{8}$ -inch meter ----- \$0 50

*Irrigation Use.*

For 100 cubic feet ----- \$0 03

The plant consists of three separate pumping units, a 50,000 gallon capacity storage tank on a 50-foot tower, and a transmission and distribution pipe system ranging in size from  $1\frac{1}{2}$  to 10 inches in diameter and covering the entire city. Approximately 740 consumers are now supplied with water, mostly through  $\frac{5}{8}$ -inch meters. Only one of the three pumping plants is operated at the present time.

Engineering reports were presented at the hearing by C. I. Rhodes, of the Chester H. Loveland Engineers, for the applicant, and by John Spencer, one of the Commission's hydraulic engineers. Comparative figures for estimated original cost of the system, for depreciation annuity, and maintenance and operation expense as shown by the two reports are as follows:

	Applicant's Engineer	Commission's Engineer
Estimated original or historical cost of the system as now installed -----	\$186,998 00	\$182,029 00
Depreciation annuity -----	3,122 00	3,707 00
Maintenance and operation expense, year 1922 -----	6,715 00	6,770 00
Estimated reasonable maintenance and operation ex- pense for the future, per annum -----	8,710 00	7,293 00

No objection was made to the figures contained in either of these reports, counsel for the city of Southgate and for certain consumers stating that there was no opposition to a reasonable increase in rates, but that improvements in service rendered and in the quality of water furnished were desired.

Revenues from the sale of water for the year 1921 amounted to \$2,937 and for the year 1922 to \$4,598, each sum being considerably less than either of the estimates of reasonable maintenance and operation expense for the future. It is therefore clearly evident that this utility is entitled to an increase in rates.

The report submitted by the engineers of the applicant sets forth a suggested schedule of rates which are reasonable and it is estimated will yield sufficient revenue to cover maintenance and operation expense, depreciation annuity, and a return of approximately 2 per cent upon the investment. Applicant does not at this time expect or ask for a greater rate of return. This schedule of rates will therefore be authorized in the accompanying order.

Objection was made on behalf of the city of Southgate and consumers of inadequate service due to lack of pressure in some sections of the city, and to the quality of water which is supplied at certain times. Applicant has, since the hearing, filed with the Commission a statement of inten-

tion to place a second pumping plant in operation immediately and to make the necessary connections with existing mains so as to provide a thorough circulation of water in the pipes and to render adequate service to consumers. Such procedure will undoubtedly remove the present sources of complaint, and the continued collection of the rates herein established is conditioned upon the completion of these improvements within a reasonable time.

#### ORDER.

Southgate Gardens Water Company, a corporation, having made application for authority to increase rates for service rendered to consumers in the city of Southgate, Los Angeles County, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed therein:

It is hereby found as a fact that the rates now charged by Southgate Gardens Water Company, a corporation, for water delivered to consumers in the city of Southgate, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that Southgate Gardens Water Company, a corporation, be and the same is hereby authorized to file with this Commission within twenty (20) days from the date of this order the following schedule of rates for water delivered to consumers subsequent to October 15, 1923:

#### *Monthly Meter Rates.*

700 cubic feet or less.....	\$1 25
From 700 to 3000 cubic feet, per 100 cubic feet.....	15
Over 3000 cubic feet, per 100 cubic feet.....	12

#### *Monthly Minimum Charges.*

$\frac{3}{4}$ -inch meter .....	\$1 25
$\frac{1}{2}$ -inch meter .....	1 50
1-inch meter .....	1 75
1 $\frac{1}{2}$ -inch meter .....	2 25
2-inch meter .....	4 00
3-inch meter .....	8 00
4-inch meter .....	12 00

Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum charge will purchase at the "monthly meter rates" set out above.

*It is hereby further ordered*, that Southgate Gardens Water Company, a corporation, be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules

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regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-fourth day of September, 1923.

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DECISION No. 12654.

THE MATTER OF THE APPLICATION OF R. A. BAKER, FOR AN ORDER INCREASING AND CHANGING RATES OF THE CHIHUAHUITA WATER SYSTEM IN THE COUNTY OF LOS ANGELES.

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Application No. 9284.

Decided September 24, 1923.

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*and R. Peck, for Applicant.*

THE COMMISSION.

OPINION.

In the above entitled proceeding R. A. Baker makes application for authority to increase and modify the present rate schedule of the Chihuahuita Water System, located at Tittleyville, adjacent to Lamanda Park, Los Angeles County, and the application alleges in effect that the revenues derived from the sale of water are not sufficient to pay expense of maintaining and operating the system. The Commission heretofore asked to authorize the establishment of the rate schedule forth in the application.

A public hearing in this matter was held at Los Angeles before Examiner Williams, all interested parties having been duly notified and given an opportunity to appear and be heard.

At the hearing, applicant submitted a modification of the rate schedule set out in the application, and testified that the revision was made as the result of a further investigation of the cost of operation.

The Chihuahuita Water System consists of a well, pumping equipment, storage tanks, and the distribution system, and supplies water for domestic use to some fifty Mexican families, in addition to a rock crusher, a four-acre truck garden and a grading camp. The present rates in effect are a flat rate of \$1 per month for domestic use and \$12 per month for the grading camp. Previous to one month ago the proprietor of the truck garden received his water supply in exchange for services in attending to the pumping plant, but during the past month a meter has been installed with the understanding that he will pay for the water consumed at the metered rate to be fixed by the Commission in this proceeding. The rock crusher is owned by the applicant, and no record has been kept of the water used, but the owner estimates consumption of approximately one hundred thousand cubic feet per month. All consumers are served at flat rates.

The property was recently acquired from Charles Mueller in accordance with the terms of the Commission's order in Decision No. 1224 dated June 22, 1923, in Application No. 9115. Mr. Baker testified that his principal reason for purchasing the system was in order to obtain an adequate water supply for his rock crusher. During the past month he has installed new pumping equipment, which has greatly increased the output of the well, and has also constructed an additional storage tank.

J. G. Hunter, one of the Commission's hydraulic engineers, presented a report showing an estimated reasonable cost of applicant's used and useful property amounting to \$7,045, and a replacement annuity, computed by the 6 per cent sinking fund method, of \$182. There was also shown an estimated annual reasonable maintenance and operating charge of \$2,596. The records of revenue received from the sales of water are so incomplete as to be practically valueless.

Due to the fact that a number of the Mexican families carry their water supply from one outside faucet, it has been difficult to enforce collections, as under the present arrangement the service to parties who fail to pay their bills can not be discontinued without affecting others who may have paid all charges. Applicant testified that he proposes to install a meter practically all of the services and hold the consumer responsible for all water passing through his meter.

The rate schedule requested is reasonable under the conditions prevailing and will be authorized in the following order.

#### ORDER.

R. A. Baker, owner and operator of the Chihuahueta Water System, having applied to this Commission for an order authorizing an increase and modification of rates for water service, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates now charged by R. A. Baker for water supplied to consumers of the Chihuahueta Water System, are unjust and unreasonable in so far as they differ from the rates here established, and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order:

*It is hereby ordered,* that R. A. Baker be and he is hereby authorized and directed to file with this Commission within twenty (20) days of the date of this order the following schedule of rates, said rates to be charged for all water delivered to consumers of the Chihuahueta Water System on and after October 15, 1923:

*Monthly Flat Rates.*

or residences of five rooms or less-----	\$1 50
or each additional room over five-----	10
or each automobile over one-----	10
or each cow or horse over one-----	20
sprinkling or irrigating lawns or gardens, per 100 square feet of surface irrigated -----	05
stores or shops -----	1 50
public fountains either alone or in connection with other business-----	1 50
minimum flat rate -----	1 50

When consumer is on a flat rate, water must not run from hose, or otherwise than through sprinkler and resident faucet, unless previously arranged for at an additional charge of 75 cents for each hose connection.

All other use to be charged for at metered rates.

*Monthly Metered Rates.*

10 cubic feet or less-----	\$1 25
from 500 to 1000 cubic feet, per 100 cubic feet-----	20
from 1000 to 2000 cubic feet, per 100 cubic feet-----	15
all use in excess of 2000 cubic feet, per 100 cubic feet-----	08

*It is hereby further ordered*, that R. A. Baker be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-fourth day of September, 1923.

## DECISION No. 12655.

IN THE MATTER OF THE APPLICATION OF THE J. D. MILLAR REALTY COMPANY, A CORPORATION, TO SELL THE WATER WORKS, DISTRIBUTING SYSTEM AND OTHER PROPERTY OWNED BY IT, TO W. T. ESTEP, AND TO ESTABLISH A RATE FOR THE SALE OF WATER FOR THE SAID WATER WORKS.

## Application No. 9305.

Decided September 24, 1923.

*alzman and Kornblum, by I. B. Kornblum, for Applicants.*

BY THE COMMISSION.

## OPINION.

In this proceeding the J. D. Millar Realty Company and W. T. Estep make joint application for authority to transfer a water system from the J. D. Millar Realty Company to W. T. Estep, and for the establishment of a certain rate schedule.

The system referred to in this application serves water for domestic purposes and some irrigation use within the following tracts: Tract 279 as per map recorded in book 47, page 49 of maps; Tract 4664 as recorded in map book 51, page 52; Tract 4996, recorded in map book 55,

pages 32 and 33; and Tract 4997, recorded in map book 55, page 31 Los Angeles County records.

A public hearing in this matter was held in Los Angeles before Examiner Williams. Due notice of hearing was made and all interested parties were given an opportunity to be present and to be heard.

At the hearing, the Commission was asked to amend the application to include a request for a certificate of public convenience and necessity which would permit W. T. Estep to operate the system as a public utility.

The water system in question consists of a well, pumping equipment and a distribution pipe system. The well was drilled by John Withers about 1912 to supply water to his property, and in 1921 the J. D. Millar Realty Company, one of the applicants herein, entered into an agreement with Withers whereby the company was to take over the well, pumping equipment and storage tank, and to supply water to purchasers of property. During the years 1921 and 1922 a distribution pipe system was installed throughout the tracts and water for domestic purposes was supplied without charge until July 1, 1923.

June 1, 1923, W. T. Estep purchased the water system from the J. D. Millar Realty Company and on July 1 the consumers were notified there would be a flat rate charge of \$1.50 per month for domestic service. The evidence shows that there are approximately two hundred domestic consumers being supplied at the present time, in addition to some water furnished for irrigating a truck garden.

A number of the consumers appeared and testified that the service had been unreasonably poor until about the twentieth of August, when Estep installed an automatic electric control for the pumping plant which has greatly improved service and appears to have remedied the matters complained of. The evidence indicates that there is an ample supply of water available to meet the needs of the district. Estep testified that it was his intention in the very near future, to replace the present 5000-gallon storage tank with one of 25,000 gallons capacity, located at a higher elevation, which should materially improve the present service.

J. G. Hunter, one of the Commission's hydraulic engineers, presented a report showing an estimated original cost of the system amounting to \$10,233, and a depreciation annuity, computed by the 6 per cent sinking fund method, of \$270. No records of maintenance and operating expense were available.

There is no other public utility supplying water within the district applicant desires to serve, and no one appeared to oppose the granting of the application. A portion of the district, however, is within the city limits of Los Angeles and may be supplied with water from the muni-

system at any time the city's requirements are complied with by the city owners.

The proposed rates set forth in the application are the same as those recently granted by the Commission in its Decision No. 12022, for water supplied by the North Moneta Garden Lands Water Company, operated by W. T. Estep. The cost of producing the service in these two districts is reasonably comparable, and the rates requested are just and equitable. Applicant Estep is the owner of several public utility water systems in the vicinity of Los Angeles and appears to be responsible and able to operate this water system as a public utility.

A careful consideration of the evidence submitted indicates that the best interest of consumers will be best served by granting W. T. Estep a certificate of public convenience and necessity permitting the operation of this water system as a public utility and to authorize the collection of the rates set forth in the accompanying order.

In view of the fact that there was never any charge made for water supplied from this plant during the time it was the property of the J. D. Millar Realty Company, it is not necessary for this Commission to authorize the transfer of the property from the J. D. Millar Realty Company to Estep.

#### ORDER.

That the J. D. Millar Realty Company, a corporation, and W. T. Estep having made a joint application for authority to transfer a water system, supplying water for domestic purposes within the tracts outlined above, and for authorization of a certain rate schedule, and the best interest having been made that W. T. Estep be granted a certificate of public convenience and necessity permitting the operation of the said water system as a public utility, a public hearing having been held thereon, the matters having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that for public convenience and necessity require and will require that W. T. Estep operate a water system for the purpose of supplying water to residents in Tract 4279 as per map recorded in book 47, page 49 of map book 51; Tract 4664, as recorded in map book 51, page 52; Tract 4996, as recorded in map book 55, pages 32 and 33; and Tract 4997, as recorded in map book 55, page 31; Los Angeles County records.

It is hereby ordered, that W. T. Estep be and he is hereby authorized and directed to file with this Commission within twenty (20) days from date hereof the following schedule of rates to be charged for all water delivered to consumers in Tracts 4279, 4664, 4996 and 4997, in Los Angeles County, subsequent to October 10, 1923:

*Domestic Flat Rates.*

- (1) For a  $\frac{3}{4}$ -inch service attached to a 4-inch main, a monthly flat rate for residences, boarding houses or tenements of 5 rooms or less of----- \$1 50  
 For each additional room per month----- 25  
 Additional for private barn or garage with not more than two horses or cows or one automobile per month----- 50  
 For each additional horse or cow per month----- 20  
 For each additional automobile per month----- 50
- (2) Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard per month ----- 005

*Irrigation Rates.*

A flat rate per hour for water delivered through a two (2) inch hydrant attached to a four (4) inch main of----- \$0 75

*Domestic Meter Rates.*

For 400 cubic feet of water or less----- \$1 00  
 From 400 cubic feet to 1000 cubic feet, per 100 cubic feet----- 20  
 From 1000 cubic feet to 2000 cubic feet, per 100 cubic feet----- 15  
 All in excess of 2000 cubic feet, per 100 cubic feet----- 12

NOTE.—Meters may be installed at the option of the consumer or the company. When a meter is installed at the request of a consumer, a deposit may be required, such deposit to be returned to the consumer as a credit on monthly bills at a rate of one twentieth (1/20) of the deposit per month. The following deposits may be required:

For  $\frac{5}{8}$ -inch meter ----- \$15 00  
 For  $\frac{3}{4}$ -inch meter ----- 20 00  
 For 1-inch meter ----- 25 00  
 For 1 $\frac{1}{4}$ -inch meter ----- 45 00  
 For 2-inch meter ----- 70 00

*It is hereby further ordered*, that W. T. Estep be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

*It is hereby further ordered*, that in all other respects the above entitled application be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of September, 1923.

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 DECISION No. 12656.

IN THE MATTER OF THE APPLICATION OF CENTERVILLE WATER COMPANY FOR AUTHORITY TO EXECUTE A DEED OF TRUST AND TO ISSUE FIRST MORTGAGE BONDS OF THE PAR VALUE OF FIFTEEN THOUSAND DOLLARS.

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 Application No. 9333.

Decided September 24, 1923.

*Frank E. McGurkin*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Centerville Water Company asks permission to execute a deed of trust to secure the payment of \$25,000 of 7 per cent 10-year bonds



nd issue and sell \$15,000 of such bonds at not less than 90 per cent of their face value and accrued interest and use the proceeds to pay indebtedness.

Applicant has an authorized stock issue of \$35,000, divided into 3500 shares of the par value of \$100 each. Of this stock, \$12,500 par value has been issued and is outstanding. M. S. Pires owns \$12,300 of the outstanding stock. Applicant has no bonded indebtedness. Its notes payable amount to \$14,402.60 and its accounts payable to approximately \$4,600.

The Railroad Commission, by Decision No. 8682, dated March 3, 1921 (Vol. 19, Opinions and Orders of the Railroad Commission of California, page 429), in Application No. 5943, which was a rate proceeding, used a rate base of \$25,729. In its decision, the Commission fixed rates which are designed to yield sufficient revenue to provide for the necessary and proper cost of maintaining and operating the system, together with adequate replacement annuity and a fair return on the sum economically expended for the benefit of the present consumers. Since the Commission's decision, the company has installed fire hydrants from which it is receiving a service charge of \$35 per month. Applicant obtains its water from wells. In order that it may at all times have an adequate water supply for the extinguishment and prevention of fires, it has connected its system with that of the Spring Valley Water Company.

There has been filed subsequent to the hearing had on this application, a revised copy of applicant's proposed deed of trust. This copy is in satisfactory form.

Applicant asks permission to sell \$15,000 of its 7 per cent 10-year bonds for not less than 90 per cent of their face value and accrued interest. It is of record that arrangements have been made for the sale of \$6,000 of the bonds at par. We believe that applicant should receive at least 95 per cent for 7 per cent bonds and the order will therefore provide that no bonds may be sold for less than 95 per cent of their face value and accrued interest. The proceeds obtained from the sale of the bonds may be used to pay indebtedness.

#### ORDER.

Centerville Water Company having applied to the Railroad Commission for permission to execute a deed of trust and issue \$15,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of bonds is reasonably required by applicant and that this application should be granted as herein provided; therefore,

*It is hereby ordered*, that the Centerville Water Company be and is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed in this proceeding, provided that the authority herein granted to execute such deed of trust is for the purpose of this proceeding only and is granted, in so far as this Commission has jurisdiction, under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

*It is hereby further ordered*, that Centerville Water Company and it is hereby authorized to issue and sell for not less than 95 per cent of their face value and accrued interest, \$15,000 of its 10-year 7 per cent first mortgage bonds and use the proceeds obtained from the sale of such bonds to pay indebtedness.

The authority herein granted is subject to further conditions follows:

1. Centerville Water Company shall keep such record of the issue and sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, made a part of this order.

2. Within thirty days after the execution of the deed of trust, applicant shall file with the Commission a certified copy thereof.

3. The authority herein granted to execute a deed of trust and issue bonds will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$25. The authority herein granted to issue bonds will expire February 1, 1924.

Dated at San Francisco, California, this twenty-fourth day of September, 1923.

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#### DECISION No. 12674.

IN THE MATTER OF THE APPLICATION OF PEERLESS STAGES, INCORPORATED, TO ISSUE STOCK, AND THE APPLICATION OF HARRY GAETA, S. H. DUNBAR, BASIL A. PERRY, JOSEPH B. HELD, A. CHAT W. FISH, AS ADMINISTRATRIX OF THE ESTATE OF FRANK V. FISH, DECEASED, INDIVIDUALLY, AS COPARTNERS, A CORPORATION, FOR THE APPROVAL OF AN AGREEMENT TO TRANSFER CERTAIN OPERATIVE RIGHTS TO SAID CORPORATION, AND RECEIVE STOCK THEREFOR, AND FOR APPROVAL OF A CERTAIN AGREEMENT ENTERED INTO BETWEEN HENRY T. CAMPBELL AND PEERLESS STAGES, INCORPORATED, A CORPORATION.

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Application No. 9210.

Decided October 2, 1923.

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*Harry A. Euclid and James A. Miller, for Applicant.*

- . *B. Roehl*, for W. H. Pearson and H. W. Rogers, Protestants.  
 . *L. Whittle*, for Hugh Goodfellow, Warren Olney and W. I. Brobeck, Trustees,  
 successors to San Francisco-Oakland Terminal Railways.  
 . *H. Gogarty*, for the Southern Pacific Company.  
 . *E. McCurdy*, for Henry T. Campbell.

HOORE, *Commissioner*.

#### OPINION.

This is a joint application filed in behalf of Peerless Stages, Incorporated, a corporation, and Harry Gaeta, S. H. Dunbar, Basil A. Perry, Joseph B. Held and Chat W. Fish, as administratrix of the estate of Fred V. Fish, deceased, as individuals, and also in behalf of the above named individuals and Henry T. Campbell as an individual and as copartners, and asks for permission to transfer from the individuals and the copartnership certain operative rights to the corporation and of the corporation for permission to issue \$220,000 of common capital stock and a \$14,000 8 per cent serial note, to execute a chattel mortgage to secure the payment of said note and to assume an indebtedness in the sum of \$21,500.

At the present time Gaeta, Dunbar, Perry, Held, Campbell and Fish, administratrix, are engaged in the operation, both as individuals and as copartners of automobile stages between the termini of Oakland and San Jose, serving intermediate points as more specifically hereinafter set out. Each of said individuals claims the individual right to operate automotive passenger stage service between Oakland and San Jose, via Hayward and Niles, and the copartnership interest in a certificate authorizing the operation of automotive stage service between Oakland and Centerville, via Mount Eden, and between Niles and Warm Springs, via Mission San Jose.

On December 11, 1922, the Railroad Commission issued an order to show cause directed against individuals, applicant in the present proceeding, both as individuals and copartners, in which they were directed to appear before the Commission and show cause, if any they had, why the Commission should not issue such order or orders directing changes in the nature of their operations so as to bring the same within the provisions of statutory law and the rules and regulations of the Commission.

On May 24, 1923, the Railroad Commission issued its Decision No. 2129 in Case No. 1855, in which decision certain findings were made with reference to the operative rights legally held by respondents in said proceeding, both as individuals and copartners, said decision requiring that respondents file within a period not to exceed thirty (30) days from date thereof, a comprehensive plan which would enable them to operate either as individuals, copartners, or as a corporation, in accordance with the provisions of chapter 213, Statutes of 1917, and

amendments thereto, and rules and regulations established by the Railroad Commission under the provisions thereof.

The present application is in accordance with the plan submitted under the direction of the above numbered decision. Henry T. Campbell as an individual and as a copartner, and Peerless Stages Incorporated, have entered into an agreement, dated July 2, 1923, by the terms of which Henry T. Campbell has agreed to transfer to the corporation whatever operative rights or interest in operative rights are owned by him, together with his interest in office fixtures and furniture and terminal leasehold and one share of stock in the San Jose Union Stage Depot, Incorporated, together with two automobiles, one a 19-passenger Packard of an estimated value of \$5,000, and the other a 19-passenger Locomobile, with an estimated value of \$5,000. The corporation has agreed to pay for such properties the sum of \$15,000, payable \$1,000 in cash upon the execution of the agreement and \$14,000 represented by a promissory note, of which \$5,000 is payable within five days after the date of the order herein and \$500 or more every thirty days thereafter until the entire amount is paid. Whatever balance remains due and unpaid one year after the Commission's order, will bear interest on the decreasing amount at the rate of 8 per cent per annum, provided that in addition thereto the corporation will pay an amount representing interest at 8 per cent on the principal unpaid at the end of one year after the date of the decision in this matter.

It is the intention to secure the payment of this note by a chattel mortgage on twelve of the stages to be acquired by the corporation. As the Commission has not as yet received a copy of the proposed mortgage it can not at this time authorize the execution of such an instrument and therefore the order herein will provide for the execution of an unsecured note. In the event that the company subsequently files a copy of this proposed mortgage, the Commission, by supplemental order, will authorize its execution provided it is in satisfactory form.

Applicants Gaeta, Dunbar, Perry and Held also claim operative rights authorizing the operation of passenger stage service between Oakland and San Jose, via Hayward and Niles. Chat W. Fish, as administrator of the estate of Fred V. Fish, deceased, also claims a similar operative right and has secured permission from the probate court to dispose of the same to the corporation in accordance with an agreement entered into and made a part of the application herein.

Each of the above named individuals, together with Henry T. Campbell, as a copartnership, hold a certificate authorizing the operation of an automotive stage service between Oakland and Centerville, via San Leandro, San Lorenzo, Hayward, Mount Eden and Alvarado, secure

by transfer under Decision No. 8828, in Application No. 6664, dated April 8, 1921; also as copartners, a certificate authorizing operation of automotive stage service between Niles and Warm Springs, via Mission San Jose, secured by Decision No. 8859, in Application No. 6515, dated April 14, 1921.

It is proposed under the present proceeding, to consolidate all of such operative rights under the name of Peerless Stages, Incorporated, a corporation.

The record shows that applicants have agreed to deliver four-elevenths of the stock authorized by the Commission to Joseph Held; two-elevenths to S. H. Dunbar; two-elevenths to Harry Gaeta; two-elevenths to Basil Perry; and one-eleventh to Chat W. Fish, in payment for their properties, subject to outstanding indebtedness. These properties are described in some detail in the application and are reported to consist of twenty-six automobiles of an estimated value of \$123,400; stock in the San Jose Union Stage Depot, Incorporated, of \$1,500; shop equipment of \$18,500; the building in Oakland estimated at \$10,000; and furniture and fixtures and office supplies of \$5,404.50. In addition, a value of \$100,000 is claimed for good-will.

The value of the properties was determined by the owners thereby and is said to represent, in their opinion, the present value to them. The value assigned to good-will is an estimate, supported by nothing except a general statement by Joseph Held, a witness, that it had taken several years to build up the business and that some moneys were expended for advertising and similar purposes. The Commission will not recognize \$100,000 as a value of good-will for the purpose of authorizing the issue of stock. To enable applicant Peerless Stages, Incorporated, to acquire the properties described in this application, and qualify its directors, the Commission will authorize the issue of \$140,000 of stock and a \$14,000 note and the assumption of indebtedness if not exceeding \$21,500.

At the hearing upon this proceeding it was stipulated by applicants that should the consolidation of operative rights be permitted as herein proposed, the corporation would only claim one operative right over the respective routes operated and that the individual operative rights are now claimed by individual applicants between Oakland and San Jose, via Niles and Hayward, would be revoked and annulled, except in so far as they may be transferred to the corporation.

In the decision upon the order to show cause hereinabove mentioned, being Decision No. 12129, in Case No. 1855, it was clearly pointed out that at least two of the so-called operative rights are defective. It is, however, further shown by said investigation (the record in which, by stipulation, was incorporated in the present proceeding), that there does exist a valid operative right secured by Joseph Held, one of the

applicants in the present proceeding, under the provisions of section of chapter 213, Statutes of 1917, due to operation in good faith prior to May 1, 1917, and continuous since that date. This operative right will be authorized to be transferred to the corporation, together with the two operative rights heretofore secured by the copartnerships, on authorizing the operation between Oakland and Centerville, via Mount Eden, and the other between Niles and Warm Springs, via Mission San Jose.

Other operative rights held or claimed by individuals applicant herein will be revoked and annulled by supplemental order in Case No. 1855 the decision therein having been left open for such further order or orders as the Commission would deem advisable in the premises.

I herewith submit the following form of order:

#### ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and properties, the execution of a chattel mortgage and a \$14,000 note, the issue of \$220,000 of stock and the assumption of indebtedness, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as provided herein and that issue of \$140,000 of stock is reasonably required;

*It is hereby ordered*, that Peerless Stages, Incorporated, be and it is hereby authorized to issue an unsecured promissory note for \$14,000 in part payment of the properties of Henry T. Campbell, upon the terms and conditions outlined in this application; to issue for the purposes mentioned below \$140,000 of its common capital stock and to assume the payment of not exceeding \$21,500 of indebtedness.

*It is hereby further ordered*, that the application, in so far as it relates to the issue of \$80,000 of stock, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized, five shares of the aggregate par value of \$5 shall be sold at par for cash to directors and the proceeds used for working capital. The remaining \$139,995 shall be delivered to Joseph Held, Basil Perry, Harry Gaeta, S. H. Dunbar and Chat W. Fish, in part payment of the rights and properties to be acquired from them.

2. Upon the filing by Peerless Stages, Incorporated, of a copy of its proposed chattel mortgage in satisfactory form, the Commission, by supplemental order, will authorize the execution of such mortgage to secure the payment of the note herein authorized.

3. The authority herein granted to issue a note and to assume the payment of indebtedness will become effective when Peerless Stages

ncorporated, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$36, but will expire on April 1, 1924. The authority to transfer properties and to issue stock will become effective upon the date hereof but will expire on April 1, 1924.

4. Peerless Stages, Incorporated, shall keep such record of the issue, sale and delivery of the stock and note herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The price at which the properties are herein authorized to be transferred shall never be urged before this Commission or public body as a measure of the value of such properties in fixing rates or for any purpose other than this transfer.

*It is hereby further ordered*, that Joseph B. Held be and he is hereby authorized to transfer to Peerless Stages, Incorporated, a corporation; and Peerless Stages, Incorporated, a corporation, be and it is hereby authorized to acquire and thereafter authorized to operate under the perative right of said Joseph B. Held authorizing operation of an automotive stage line as a common carrier of passengers and express between Oakland and San Jose and the intermediate points of San Leandro, Hayward, Niles, Centerville, Irvington, Warm Springs and Milpitas, secured by said Held under the provisions of section 5, chapter 213, statutes of 1917, through operation prior to May 1, 1917 and continuously since that date.

*It is hereby further ordered*, that the copartnership applicants herein be, and they hereby are, authorized to transfer to Peerless Stages, Incorporated, and the latter to acquire and thereafter operate under certificate of public convenience and necessity transferred to the copartnership from the Western Motor Transport Company under Decision No. 8828, Application No. 6664, dated April 8, 1921, and the certificate of public convenience and necessity secured by the copartnership under Decision No. 8859 in Application No. 6515, dated April 14, 1921.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Peerless Stages, Incorporated, a corporation, of automotive stage service as a common carrier of passengers and express jointly between any or all of the intermediate points named under the three certificates hereinabove authorized to be transferred to said corporation; and

*It is hereby further ordered*, that a certificate of public convenience and necessity be and the same is hereby granted subject to the following conditions:

1. That said Joseph B. Held and the said copartnerships shall immediately cancel all tariff of rates and time schedules covering operation under certificates herein authorized to be transferred.

2. That said Peerless Stages, Incorporated, a corporation, shall file in its own name tariff of rates and time schedules identical with the tariff of rates and time schedules at present on file in the name of the individual or copartnership covering service under certificates herein authorized to be transferred.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this second day of October, 1923.

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DECISION No. 12675.

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL ONE MILLION DOLLARS OF SERIES "C" FIRST AND REFUNDING MORTGAGE BONDS.

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Application No. 9395.

Decided October 2, 1923.

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*Chaffee E. Hull*, for Applicant.

BY THE COMMISSION.

OPINION.

Great Western Power Company of California asks permission to issue and sell at not less than 96 per cent of their face value and accrued interest \$1,000,000 of Series "C" first and refunding mortgage bonds due February 1, 1952. It further asks permission to use the proceeds from the sale of the bonds to pay, in part, the cost of acquiring and constructing the properties described in Exhibits 1 to 5, both inclusive, filed in Application No. 8836, and in Exhibit "B" filed in this proceeding.

In Exhibits 1 to 5, both inclusive, filed in Application No. 8836, the company estimates its construction expenditures not financed through the issue of stock or bonds, at \$3,923,961. In Decision No. 12020 dated May 3, 1923, in Application No. 8836, the Commission authorized the company to issue and sell at not less than \$95 per share net 40,000 shares (\$4,000,000 par value) of 7 per cent cumulative preferred stock for the purposes of paying the construction expenditures reported in said Exhibits 1 to 5, both inclusive.



In Exhibit "B," filed in this proceeding, applicant estimates expenditures for additions to fixed capital during the years 1923-1924 in the sum of \$923,500. The \$923,500 is in addition to the estimated expenditures reported in Exhibits 1 to 5, both inclusive, filed in Application No. 8836. The \$923,500 is segregated as follows:

increase of Butte Valley Dam from 25,000 acre-feet capacity to 50,000 acre-feet capacity -----	\$65,000 00
increase of third condenser at Golden Gate substation from 15,000 kva. to 30,000 kva. capacity, including switch gear, necessary addition to building, etc. -----	90,000 00
installation of 11,000-volt tie line between Bush street and Harrison street substation, San Francisco, together with necessary switch gear -----	34,000 00
increase in capacity of transmission facilities Northwest Division involving installation of 5000 kva. condenser Napa substation, together with necessary switch gear, building extensions and installation of 3000 kva. step-up transformers 22,000 volts to 44,000 volts; reconstruction of 22,000 volt line Napa-Santa Rosa for 44,000 volt operation; installation of three 500 kva., 44,000-22,000 auto transformers at Petaluma and Santa Rosa together with necessary switch gear; one spare 1000 kva. transformer and one spare 500 kva. transformer -----	150,000 00
and, building and equipment for combination substation and steam plant, Oakland -----	200,000 00
Electrical distribution in connection with said substation -----	80,200 00
Steam distribution connection with said steam plant -----	29,300 00
additional extensions to distribution system -----	275,000 00
Total -----	\$923,500 00

The testimony shows that applicant is not able at this time to sell stock in amounts large enough to pay its monthly construction expenditures. Rather than incur a large current indebtedness applicant has made arrangements for the sale of \$1,000,000 of bonds.

#### ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell \$1,000,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as provided in this order; therefore,

*It is hereby ordered*, that the Great Western Power Company of California be and it is hereby authorized to issue and sell for not less than 96 per cent of their face value and accrued interest \$1,000,000 of 6 per cent first and refunding mortgage Series "C" bonds, due February 1, 1952, and use the proceeds to pay, in part, the cost of the extensions, additions and betterments referred to in Exhibits 1 to 5, both inclusive, filed in Application No. 8836, or to pay, in part, the cost of extensions, additions and betterments referred to in Exhibit "B" filed in this proceeding, provided that only such cost of the extensions, addi-

tions and betterments shall be paid through the issue of the bonds as is properly chargeable to capital account under the uniform system of accounts prescribed and adopted by the Railroad Commission.

The authority herein granted is subject to further conditions as follows:

1. Great Western Power Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,000 and will expire on March 1, 1924.

Dated at San Francisco, California, this second day of October, 1923.

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DECISION No. 12676.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

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Application No. 9111.

Decided October 2, 1923.

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BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Southern California Gas Company in its fourth supplemental petition filed in the above entitled matter, asks the Railroad Commission for permission to use the proceeds from the sale of \$350,151.23 of bonds authorized by Decision No. 12215, dated June 15, 1923, to finance the cost of extensions, additions and betterments to its plants and properties.

By Decision No. 12215 the Commission authorized Southern California Gas Company to issue and sell at not less than 94.75 per cent of face value, plus accrued interest, \$2,500,000 of its first and refunding mortgage Series "C" 6 per cent bonds due June 1, 1958. The order of the Commission, as amended from time to time, permits the company to use the proceeds from the sale of \$1,618,932.75 of the bonds to finance in part, the cost of construction expenditures heretofore reported to the Commission but provides that the proceeds from the remainder of the bonds be deposited with the trustee and expended only for such purposes as the Commission might authorize in supplemental orders.

The company now reports that prior to August 31, 1923, it expended or extensions, additions and betterments, the sum of \$451,868.30 of which \$437,868.30, according to applicant, is properly chargeable to capital account and has not heretofore been paid or provided for through the issue of stock or bonds. In addition, it reports that during the month of September it expended \$29,000 in constructing its 10,000,000 cubic foot gas holder, which amount, added to the \$437,868.30, results in a total of \$466,868.30. In making this supplemental petition, applicant asks permission to use the proceeds from the sale of bonds in face amount equal to 75 per cent of the cost of these reported expenditures.

The Commission has given consideration to applicant's request and believes it should be granted, as herein provided; therefore,

*It is hereby ordered*, that Southern California Gas Company be and it is hereby authorized to use, on or after the date hereof, the proceeds from the sale of \$350,151.23 of the bonds authorized by Decision No. 2215, dated June 15, 1923, to finance in part, such portion of the cost of the extensions, additions and betterments referred to herein as is properly chargeable to capital account, as defined by the uniform system of accounts prescribed by this Commission.

*It is hereby further ordered*, that the order in Decision No. 12215, dated June 15, 1923, as amended, shall remain in full force and effect except as modified by this fourth supplemental order.

Dated at San Francisco, California, this second day of October, 1923.

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DECISION No. 12679.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

*vs.*

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, A CORPORATION.

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Case No. 1840.

Decided October 3, 1923.

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**FARES—STREET RAILWAY—SCHOOL CHILDREN'S FARES.**—Action of the San Francisco-Oakland Terminal Railways in granting a reduced fare of 2½ cents to school children in Richmond and Alameda, while charging the full fare of 6 cents to school children in Oakland and Berkeley, is held to be a discrimination which can not be justified upon any logical or reasonable ground, and must be eliminated. The argument of defendant that the Railroad Commission has no jurisdiction to direct the removal of such discrimination is held unsound, and defendant is ordered to eliminate said discrimination on or before December 3, 1923.

**DISCRIMINATION—POWER OF THE COMMISSION TO ELIMINATE—FRANCHISE PROVISIONS NOT CONTROLLING.**—It is well settled that franchise provisions are not controlling over the exercise of the police power of the state in the regulation of public utilities. One of the most important branches of such regulation is

the elimination of undue preference and of unreasonable or arbitrary discrimination.

*Leon E. Gray*, for City of Oakland, Complainant.

*Lemuel D. Sanderson*, City Attorney, for City of Berkeley, Complainant.

*Peter F. Dunne* and *A. L. Whittle* for San Francisco-Oakland Terminal Railway, Defendant.

*MARTIN*, Commissioner.

### OPINION.

In this case the cities of Oakland and Berkeley seek the removal of an alleged discrimination against children attending institutions of learning within their municipal limits in that the San Francisco-Oakland Terminal Railway, a corporation, operating a common carrier streetcar and railroad in and through several municipalities, including these complainant cities accords a 2½ cent fare to school children in the cities of Alameda and Richmond, while at the same time demanding a 6 cent fare from school children of Oakland and Berkeley.

Defendant, in its answer, denies that this difference in fare is based upon an arbitrary or unreasonable distinction, and alleges that the cities of Richmond and Alameda have, by ordinance, required the reduced fare of 2½ cents now charged to school children in those cities. Public hearing was had in this matter before Commissioner Martin. Briefs were filed and the case is now ready for decision.

Section 17 of the Public Utilities Act (Statutes of 1915, chapter 90, as amended), provides that:

“Nothing in this act contained shall be construed \* \* \* to prohibit the issue of reduced rate transportation by common carriers to school children attending an institution of learning.”

Defendant argues that this provision gives it a free hand to grant or to withhold reduced rates to school children as it sees fit, and that neither the general principles of public utility law nor the special provisions of the California constitution and Public Utilities Act relating to discrimination and undue preference apply. It follows, defendant argues, that this Commission is without power or authority to direct the removal of any discrimination which may result.

This argument is, in our opinion, unsound. While it seems clear that, as section 17 of the Public Utilities Act now reads, this Commission is not empowered to require common carriers to accord reduced rate transportation to children attending an institution of learning (*Beals vs. San Francisco-Oakland Terminal Railway*, 11 C. R. C. 96), we can find nothing in that section which would evidence an intention upon the part of the legislature to free common carriers from the constitutional and statutory prohibition of undue or unreasonable discrimination between persons or localities included within this or other classes to which special rates may be accorded.

In the recent case of *Nashville C. & St. Louis Ry. vs. Tennessee*, 16 J. S. Supreme Court Adv. Ops. 616; 67 L. ed. (decided May 21, 1923), the United States Supreme Court had under consideration a provision of the act to regulate commerce (section 22), which reads:

"Nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments \* \* \*."

The State of Tennessee excepted from a rate increase carload shipments of rock, sand and gravel consigned to public authorities or their agents and to be used in building public highways. Certain carriers claimed before the Interstate Commerce Commission, and that Commission found, that such exception created an undue prejudice to certain persons and localities engaged in interstate commerce. The lower federal court declared the Commission's order void, and enjoined its enforcement, but the United States Supreme Court reversed that decree, and, in the course of its opinion, said:

Congress did not intend, by this provision concerning reduced rates and free transportation, to create an instrument, by which the carrier was authorized, in its discretion, to subject interstate commerce to undue prejudice, or by which the state was empowered to compel the carriers so to do. The object of the section was to settle, beyond doubt, that the preferential treatment of certain classes of shippers and travelers, in the matters therein recited, is not necessarily prohibited. And in his respect its provisions are illustrative, not exclusive. It limits, or defines, the requirement of equality in treatment which is imposed in other sections of the act. By so doing, it preserves the right of the carrier, theretofore enjoyed, of granting, in its discretion, preferential treatment to particular classes in certain cases. Only in this sense can it be said that the section is permissive. It confers no right upon any shipper or traveler. Nor does it confer any new right upon the carrier.

The grant of a lower rate on road material to a government engaged in highway construction may benefit the government without subjecting to prejudice any person, locality, or class of traffic. But a lower rate may result in giving to a single quarry within the state all of the governmental business, so that competing quarries and localities within or without the state, or interstate traffic, would be prejudiced. That such undue discrimination does, and will, result from the order of the Tennessee Commission, was expressly found by the Interstate Commerce Commission. Its findings are necessarily conclusive, since the evidence on which it acted was not introduced in this suit. *Louisiana & P. B. R. Co. vs. United States*, 257 U. S. 114; 66 L. ed. 156; 42 Sup. Ct. Rep. 25.

In the case of *State ex rel Atwater vs. Del. L. & W. R. Co.*, (N. J.) 2 Atl. 803 (1886), the court said:

A company is under no obligation to establish commutation rates for a particular locality, but when it has established such rates, and commutation tickets are sold hereat to the public, the refusal of such a ticket to a particular individual, under the same circumstances and upon the same conditions as such tickets are sold to the rest of the public, is an unjust discrimination against him, and a violation of the principles of equality which the company is bound to observe in the conduct of its business.

To the same effect see *In the Matter of Party Rate Tickets*, 12 I. C. C. 96; *Western Pacific R. R. Co. vs. So. Pac. Co.*, 55 I. C. C. 71, 74.

We think the principles above declared apply with peculiar force to the case now under consideration. The provision of the Public Utilities

Act here in question "preserves the right of the carrier, theretofore enjoyed, of granting, in its discretion, preferential treatment to children attending an institution of learning." It confers no right upon school children as a class to demand such preferential treatment, and this Commission recognized in the *Beals* case (*supra*) that the initial granting of such preferential treatment is fully within the discretion of the carrier. But the provision does not "confer any new right upon the carrier," and we can not subscribe to the argument that the carrier is by it empowered, arbitrarily, to create an unreasonable discrimination as between persons within the favored class.

Section 21 of article XII of the constitution of this state provides:

No discrimination in charges or facilities for transportation shall be made by any railroad, or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State.

The Public Utilities Act (section 19) provides:

No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

The question of primary importance, therefore, seems to us to be whether or not the charging of but 2½ cents to school children of Alameda and Richmond, while demanding 6 cents from those of Oakland and Berkeley is an unreasonable differentiation or an undue or arbitrary discrimination against the latter, and therefore prohibited by law. Clearly the defendant could not lawfully exclude from a generally applied school children's rate, any particular child, or those attending a particular school, unless such discrimination could be justified by some actual and reasonable difference in the class of service rendered.

Defendant's street car system comprises a network many miles in extent serving a closely built-up region, divided for purposes of local government, into several separate municipal corporations, and commonly known as the "East Bay District," or the "East Bay Cities." To all intents and purposes, this region constitutes a single metropolitan area including the present complainants and also the cities of Alameda and Richmond. To accord reduced rates to the school children of the latter cities, while demanding full fare of those of complainants, Oakland and Berkeley, is, we think, a discrimination which can not be justified upon any logical or reasonable ground. Defendant has not attempted to justify such discrimination, except upon the ground of franchise requirements but has argued that the ordinary principles condemning discrimination in rates do not apply. As stated above,

his Commission is of the opinion that these principles do apply, and we hereby find as a fact that the discrimination here in question is unreasonable and unjust and must be eliminated. It is well settled that franchise provisions are not controlling over the exercise of the police power of the state in the regulation of public utilities. One of the most important branches of such regulation is the elimination of undue preference and of unreasonable or arbitrary discrimination.

The case presents marked points of similarity to that of *South San Francisco Chamber of Commerce vs. Southern Pacific Co., et al.* (18 R. C. 997), decided by this Commission on October 11, 1920, and commonly known as the "switching limits" case. In that case it was shown that the charges for switching freight in carloads between Oakland wharf and Elmhurst, a distance of 9.9 miles, were 30 cents per ton, minimum \$6.50 per car, while the charges for switching freight, regardless of classification, between San Francisco and South San Francisco, a distance of 9.1 miles, were 60 cents per ton. Defendant, Southern Pacific Company, urged—as has defendant in the present case—that the lower rate between Oakland and Elmhurst was a franchise requirement, but the Commission held that such franchise provisions are not conclusive in the determination of issues of this nature, and found that such practices subjected South San Francisco to unreasonable prejudice and disadvantage in violation of section 19 of the Public Utilities Act. The carrier was ordered to submit to the Commission a tariff removing the discrimination. A similar order will be made in the present case.

In view of our conclusion as to the power and duty of this Commission to order the removal of an unreasonable discrimination within a class to which, under the provisions of section 17 of the Public Utilities Act, a carrier may extend reduced fare privileges, it is unnecessary to consider whether or not any different conclusion would be violative of the constitutional provision against discrimination; and, in view of the order hereinafter made, it is unnecessary to discuss the power of this Commission to remove the discrimination here in question by the establishment of any particular rate.

#### ORDER.

The municipal corporations of Oakland and Berkeley having complained to the Commission that a fare of 6 cents assessed to children attending institutions of learning within their municipal limits is unjust, unreasonable and discriminatory to said school children in view of the action of defendant in charging children attending institutions of learning within the municipal limits of the adjacent municipal corporations of Richmond and Alameda but 2½ cents; a public hearing

having been held, briefs having been filed, and the Railroad Commission being fully apprised in the premises, and basing its order upon the findings of fact which appear in the opinion preceding this order:

*It is hereby ordered*, that the San Francisco-Oakland Terminal Railways, a corporation, be and it is hereby notified and required to eliminate on or before the third day of December, 1923, the undue and unreasonable prejudice and disadvantage found in the preceding opinion to result from the publishing, demanding and collecting of a higher rate for the transportation of children attending institutions of learning within the municipal limits of the cities of Oakland and Berkeley, than it contemporaneously publishes, demands and collects for the transportation of children attending institutions of learning within the municipal limits of the cities of Richmond and Alameda; and

*It is hereby further ordered*, that defendant, San Francisco-Oakland Terminal Railways be and it is hereby directed to file with this Commission, on or before the said third day of December, 1923, its schedule of fares applying to the class of transportation herein mentioned, which shall eliminate and put an end to the discrimination herein ordered abolished.

Dated at San Francisco, California, this third day of October, 1923.

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DECISION No. 12680.

JAMES MARWICK

*vs.*

LAGUNA BLANCA WATER COMPANY,

Case No. 1330.

IN THE MATTER OF THE APPLICATION OF LAGUNA BLANCA WATER COMPANY, A CORPORATION, TO ABANDON PUBLIC UTILITY SERVICE.

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Application No. 7365.

Decided October 3, 1923.

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**WATER UTILITY—ABANDONMENT OF SERVICE—CONTINUANCE UNDER NONCOMPENSATORY RATE CONSTITUTES CONFISCATION.**—Laguna Blanca Water Company, a public utility water service, is found to be operating under a noncompensatory rate and that continuance of service would constitute confiscation. Right of an unprofitable public service to abandon such service is upheld. Prior order of the Commission is vacated, and authority is granted to abandon public utility service within six months from effective date of this order, and upon 60 days notice to the Commission and to the consumers.

*Thompson and Robertson*, for James Marwick.

*Johnson and DeLigne*, by *Archibald M. Johnson*; and *Devlin and Brookman*, by *Frank R. Devlin and Douglas Brookman*, for Laguna Blanca Water Company.

*Richards, Heaney and Price*, by *J. W. Heaney*, for Protestants *Arthur G. Orena*, *Julia W. Warfield* (formerly *Julia W. Horne*), and *Mrs. A. A. Kimball*.

*John M. Curran*, for Protestants *Benedict Kimber*, *Sidney Kimber* and *Mrs. Vernon McCune*.



*James B. Rickard*, for Calvary Cemetery Association, Protestant.

*Miss Lucy Dennison*, Trustee of the Public School District, protesting on behalf of the School District.

*MARTIN*, Commissioner.

### OPINION.

The essential facts involved in Case No. 1330, above named, are stated in our original opinion in that case (Decision No. 9429, August 30, 1921; 20 C. R. C. 456). In brief, they are that defendant had refused water service upon certain lands of complainant which he declares are within the area to which defendant's water is dedicated. Defendant claimed as a reason for such refusal inadequacy of facilities, insufficiency of supply and abandonment of the service pipe to these premises by agreement with complainant's predecessor.

Public hearings were held, and in our said decision we held that complainant was entitled to the desired water service. In view of the deteriorated condition of defendant's pipes, however, defendant was not ordered to resume the gravity service formerly rendered, but was ordered to supply water at the foot of a steep slope below complainant's lands, and to provide complainant with necessary easements and rights of way to enable him to pump the water up to his lands at his own expense. Defendant prayed for a rehearing on the ground that this order directed it to furnish complainant with property not owned by it, and rehearing was granted, but before it could be heard defendant filed Application No. 7365 above named, asking leave to abandon its public utility service, and declaring that the Hope Ranch, to which its waters are primarily dedicated, had need for all its supply, that it is operating at a loss, and that all its consumers possess an alternative supply. Applicant states that it does not consider itself a public utility but that since jurisdiction over it has been assumed by this Commission it does not feel justified in discontinuing service without requesting authority so to do.

Case No. 1330 on rehearing and Application No. 7365 were consolidated for hearing, and a public hearing was held before Commissioner Martin at Santa Barbara on May 9, 1922. The new evidence concerned chiefly the company's claims of inadequate supply; financial loss; availability of alternative sources, and consent to abandonment of public utility service by what it terms its "primary consumers." Written protests against the proposed abandonment were filed by the Calvary Cemetery Association, Maria A. Lane, Benedict Kimber, Sidney Kimber and Mrs. Vernon McCune. The company asserted that service to all consumers outside its Hope Ranch was of non-public utility character.

In view of the nature of the issues involved in these matters, and of the mass of testimony before us, it may be useful to trace somewhat

carefully the history of this utility. A corporation called the Pacific Improvement Company owned a large amount of real estate in Santa Barbara County, including certain tracts known as the "Hope," "Burton" and "Ontare" ranches (usually referred to collectively as the "Hope Ranch") comprising more than 2000 acres, together with land and water rights in the neighboring San Rafael (or Santa Ynez) mountains. On the Hope Ranch was located a natural lake known as the "Laguna Blanca," which constitutes a valuable storage reservoir. In connection with the development of its lands and for the purpose of obtaining water for use thereon, the Pacific Improvement Company, about 1902, drove a tunnel some 3600 feet in length into the western slope of the San Rafael mountains at an elevation of approximately 1500 feet. This tunnel was sealed some distance from its mouth, and a valve installed, a pipe line being run therefrom some 5 miles to a reservoir on the Hope Ranch near the Laguna Blanca the reservoir being at some 370 feet elevation.

As a part of a general scheme for the exploitation of its lands, the Pacific Improvement Company, in 1906, subdivided a large portion of the Hope Ranch into tracts of several acres each, with the intent of creating a high class residential park adjacent to the city of Santa Barbara.

Presumably for greater convenience of management, the Pacific Improvement Company, on August 21, 1906, conveyed to a newly formed corporation, the Laguna Blanca Water Company, defendant and applicant herein, a large amount of real property and water rights, including the said tunnel, pipe line, reservoir, and lake. The deed expressly reserved all the water that the Pacific Improvement Company, its successors or assigns, might need or demand for use upon the Hope Ranch, with right to take the same, and it was expressly provided that, as part of the consideration of the deed, such water should be delivered to the Pacific Improvement Company, its successors and assigns, free of charge. By the terms of the deed, the water reserved for the ranch property was made appurtenant to the land. But notwithstanding this fact, the deed further provided that any "grantee" to whom the Pacific Improvement Company conveyed all or part of the lands, could be required to pay for water service by the water company at such rates as might be agreed upon between the consumer and the company or established by the company, "or by proper authority." The owners of said Hope Ranch, or the grantees of any portion thereof, are also given a prior right to such water, and to share, pro rata, in periods of water shortage.

In determining the public utility character of the Laguna Blanca Water Company, not only is the above mentioned provision regarding

possible fixing of the rates "by proper authority" important, but it could be noted that by this deed the water company took and accepted, a part of the property so transferred to it, "All franchises and privileges granted by the board of supervisors \* \* \* for laying pipes in any road, avenue or street in said county of Santa Barbara."

The plan to create a residential suburb was a failure, only five of the tracts in "Hope Ranch Park No. 1" were sold, and three of these were subsequently repurchased by the Pacific Improvement Company. One of the tracts sold, and not repurchased, was granted to James McNulty, 2nd, predecessor of complainant Marwick, by deed dated January 24, 1913. This tract of approximately eight acres, included lots 66 and 67 and a portion of lot 69 of said "Hope Ranch Park No. 1," upon which McNulty erected a residence and made it his home. By special agreement, dated February 27, 1913, the Water Company undertook, so long as it should have sufficient water and pro rata in cases of shortage, to supply water to McNulty at a specified rate, "subject to any change that may be made therein by any action of the board of supervisors of Santa Barbara County or other public officer or body having jurisdiction to regulate water rates in the said Santa Barbara County"—a further fact of particular significance in determining the public utility character of this water company.

For some time water was actually supplied to McNulty under this agreement, and as this property is at a higher elevation than the reservoir or lake, the method used was to close the valves at those points and back water up along the tunnel pipe line until it was forced by gravity into a tank erected by the water company on an eminence joining the McNulty property. Later, McNulty and the company's representatives negotiated for a change in method, by which the company would deliver the water at the foot of the steep slope below McNulty's house, he to attend to pumping it up to his premises. These negotiations were never completed, for McNulty's house burned down and he left the property, later selling to one Rutherford, to whom the water company, at least once, delivered water by the above-mentioned gravity process. The company later refused to deliver water and, after negotiations for a sale by Rutherford to Marwick had begun, the company disconnected its pipe from the tank and took up several hundred feet of pipe which connected the tank to its general system. Later, after Marwick had purchased the property, while his claim for service was pending before this Commission, the company tore up the rest of the connecting pipe.

The record shows that the water company took on a number of consumers along its pipe line from the water tunnel, all outside of the boundaries of the Hope Ranch. With most of these consumers written

contracts were executed, each of which contains the following language:

It is clearly understood that the company furnish water *only* when it has a surplus that is not required on the Hope Ranch, and it reserves the privilege of discontinuing the service when it sees fit.

These contracts were presumably entered into at the time the company began rendering service. However, as to several consumers outside the area of the Hope Ranch, the record fails to show that any such contracts were executed, and of these consumers the devisees of Virginia Kimber have protested against the discontinuance of the present service, and have filed a brief in support of their protest.

We conclude from the foregoing facts that this water company is, and from its inception has been, a public utility as to some of its consumers, and that the complainant, Marwick, was and is one of those to whom the service of water was undertaken by the company as a public utility, and as such is entitled to share in the supply available for this service.

Whether or not any order can now be made by this Commission requiring future service to complainant, Marwick, depends, of necessity, upon the determination of the issues raised by the utility's application to abandon service. In support of its application the company introduced evidence to show that all of the available supply of water was needed by the Hope Ranch, and it was contended that under the provisions of the original deed there was reserved to the ranch the right to use this water whenever it became necessary to do so. However, in view of the further showing made of the operation of the public utility service at a loss, it becomes unnecessary to pass upon the legal rights of the Hope Ranch to now claim the use of all of the water pursuant to the terms of the deed.

There was introduced in evidence a number of exhibits supported by the testimony of a certified public accountant, indicating that for the two years, 1920-1921, the operating and general expenses of the Laguna Blanca Water Company greatly exceeded the gross operative revenues for that period. This was shown by the following statement:

	Total	Year ended December 31,	
		1921	1920
Gross operating revenue -----	\$3,456 97	\$1,848 52	\$1,608 45
Operating and general expenses:			
Distribution -----	5,461 92	2,236 93	3,224 99
Depreciation of operating properties -----	14,396 00	7,198 00	7,198 00
General expenses -----	6,093 24	3,201 07	2,892 17
Taxes -----	797 69	471 15	326 54
Total -----	<u>\$26,748 85</u>	<u>\$13,107 15</u>	<u>\$13,641 70</u>
Deficit from operations -----	\$23,291 88	\$11,258 63	\$12,033 25

In our opinion, this analysis of operating costs and revenues does not correctly show the financial status of the public utility service in

question. The item for depreciation in the foregoing table is based on the straight line method instead of the sinking fund method generally employed by the Commission in rate cases. If the sinking fund method were used, there should be allowed for depreciation the sum of \$6,266 for the two years instead of the sum of \$14,396 shown in the table. It also appears that under the item of general expenses, the company has included the entire costs of litigation incurred in the present proceedings. If these costs were deducted, as we think they should be, the sum of \$134.40 should be allowed for general expenses instead of the figure above shown. The result of these changes is to reduce the total operating and general expenses for the two years to 12,659.91.

Consideration must also be given in this case to the fact that the system was operated both for private and public service.

As above set forth, there was reserved to the Hope Ranch, by the terms of the deed conveying the water system to the Laguna Blanca Water Company, all water that might be required for use on the ranch, to be delivered free of charge. This, in effect, was a reservation of water for the company's private use as distinguished from the public use voluntarily established by the service of water at fixed rates to plaintiff, Marwick, and to certain outside consumers. The water system was operated for both classes of service as a single system. A typical case is presented, therefore, wherein the operating costs of the public utility feature of the service can be properly determined by an allocation of the total operating costs on the percentage of water used by the different classes of service.

The proportionate use of water for the years 1920 and 1921 as between the Los Positas Land Company (successor in interest of the Hope Ranch) receiving free water, and the outside consumers to whom charge was made, was as follows:

	Total use	Land Company	Outside consumers
1920 -----	33,621,000 gallons	27,800,000 gallons	5,821,000 gallons
1921 -----	30,360,000 gallons	23,500,000 gallons	8,860,000 gallons
	<u>63,981,000 gallons</u>		<u>12,681,000 gallons</u>
			or 19.9 per cent of total.

We find the following statement of the revenues and operating costs revised and allocated in accordance with the foregoing conclusions to be a correct showing of the public utility feature of the company's business for the biennium 1920-1921:

Revenues -----	\$3,456 97
Operating costs and general expenses:	
Distribution -----	\$5,461 92
Depreciation -----	6,266 00
General expenses -----	134 30
Taxes -----	797 69
<u>Total -----</u>	<u>\$12,659 91</u>

Amount chargeable to public utility operations (20% total) -----	\$2,531 80	
Net revenue for the two-year period -----		\$1,125 1
Net revenue for one year -----		562 5

As shown by this analysis, the public utility service of this company has yielded a net revenue above operating costs of \$562 per year. It remains to be determined whether this amount constitutes a sufficient return upon a fair valuation of the property devoted to public service so that an order denying the application to discontinue service would not result in the enforced continuance of confiscatory rates.

The evidence submitted upon valuation of the property shows that the actual cost of the physical structures of the water company, as indicated by its books, represents an investment of \$186,500. A careful check by the Commission's valuation engineers indicates that the costs actually incurred by the company in the acquisition of its property were reasonable, and not the result of extravagant or unnecessary expenditure. The estimated value of the same property at present prices was shown to be \$248,045 or 33 per cent more than the actual cost. Using the actual cost figure of \$186,500 as a proper valuation for a rate base, which is consistent with our allowance of depreciation on the sinking fund basis, and applying to this total valuation figure the same method of allocation as in the apportionment of operating costs, we find that \$37,300 or 20 per cent of the total is the proper amount attributable to the public utility service of the company. Upon this sum as a rate base, the annual net revenue of \$562 constitutes a return of approximately  $1\frac{1}{2}$  per cent. This is clearly a noncompensatory rate, and if service were required to be continued at such rate, confiscation of the company's property would result. (*Union Hollywood Water Co. vs. Los Angeles*, 184 Cal. 535.)

In this, as in all cases of proposed abandonment of public utility service, it is recognized that such abandonment should not be permitted if any possible means can be employed to continue the enterprise without causing a confiscation of the property used for the benefit of the public. In this case, however, it appears that the rates now in effect are not abnormally low as compared with other utilities of similar character. No reasonable increase in these rates would result in an increased revenue sufficient to constitute a fair return. Furthermore, there is nothing in this record to justify the conclusion that the company could effect substantial economies in operations or increase revenues by enlarging its public utility service so that its future operations would be materially more profitable than in the past. Under such circumstances we must conclude, in accordance with the principles laid down both by the United States Supreme Court and the Supreme Court of this State, that the applicant is before us as the owner of property.

evoted to an unprofitable public service, and is entitled to abandon such service. (*Brooks-Scanlon Co. vs. R. R. Comm. of La.*, 251 U. S. 396; *Lyons & Hoag vs. Railroad Commission*, 183 Cal. 145.) The application for abandonment, therefore, will be granted.

In our prior decision in Case No. 1330, specific findings were made that certain property of plaintiff, Marwick, was within the area to which service of water had theretofore been rendered by defendant as a public utility, and these findings we hereby reaffirm. The evidence shows, however, that in order to reestablish service to Marwick's property it will be necessary either to reconstruct the pipe line and other facilities which were formerly used, or to provide some alternative means of conveying the water from defendant's present lines to Marwick's land, either of which involves a heavy expenditure of money and considerable delay. Therefore in view of the conclusions upon the application to abandon all public utility service, any order which might be made for the reestablishment of service to Marwick's land would be ineffective if the company carries out its announced intention and abandons its service pursuant to the authority herein granted. Our prior order in Case No. 1330 will, therefore, be vacated, but the making of any further and final order in that proceeding will be withheld pending the final disposition of the abandonment proceeding.

#### ORDER.

In the case of *James Marwick vs. Laguna Blanca Water Company*, Case No. 1330, the Commission having rendered its decision and order on the thirtieth day of August, 1921 (Decision No. 9429); application for rehearing therein having been filed by the Laguna Blanca Water Company on the twenty-eighth day of October, 1921; said application having been granted and said proceeding in Case No. 1330 having been consolidated for hearing and decision with Application No. 7365, wherein the said Laguna Blanca Water Company sought the authorization of this Commission for the abandonment of its public utility service; a public hearing having been had on said consolidated matters; briefs having been filed, and the matters submitted and being now ready for decision;

*It is hereby ordered*, that the Laguna Blanca Water Company be and it is hereby authorized within six (6) months from the effective date of this order, and upon sixty (60) days notice to this Commission and each and all of the consumers of said company, to terminate and discontinue all service of water heretofore maintained by such company as a public utility, and to withdraw entirely from such public service in all territory heretofore served by it as a public utility water company.

*It is hereby further ordered*, that the order heretofore made on the thirtieth day of August, 1921, in Case No. 1330 (Decision No. 9429) be and the same is hereby vacated.

The effective date of this order is hereby fixed and designated as the third day of October, 1923.

Dated at San Francisco, California, this third day of October, 1923.

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DECISION No. 12681.

IN THE MATTER OF THE APPLICATION OF PIRU WATER COMPANY A CORPORATION, HUGH WARRING, E. C. WARRING, F. S. WARRING AND L. J. WARRING, FOR AN ORDER AUTHORIZING INCREASE IN RATES FOR WATER SOLD AND DELIVERED THROUGH THE SYSTEM OF THE PIRU WATER COMPANY OF VENTURA COUNTY.

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Application No. 9066.

Decided October 3, 1923.

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*Robert M. Clarke*, for Applicants.

*Leonard B. Slosson*, for Samuel Edwards Associates, a corporation; C. S. Johnson David Felsenthal, Hutchinson Brothers, Rudolph Haase, F. H. Padelford Milton G. Young, F. S. Chapman, C. E. Spencer, W. D. Clark, and Sam Hatcher.

BY THE COMMISSION.

OPINION.

In the above entitled proceeding the Commission is asked to authorize an increase in rates for water delivered and sold for irrigation use by Piru Water Company in Ventura County.

The application alleges in effect that Piru Water Company is a corporation with 2000 shares of capital stock outstanding, of which Hugh Warring is the owner of 1183 shares; E. C. Warring is the owner of 222 shares; F. S. Warring is the owner of 223 shares, and L. J. Warring is the owner of 110 shares. It is also alleged that the system supplies water for the irrigation of approximately 355 acres of land at a rate of \$8 per acre for four irrigations per annum, when sufficient water is available; and that the present rates are not sufficient to afford applicants a reasonable return upon the value of the property. The Commission is therefore asked to authorize an increase in rates.

A public hearing in this matter was held at Piru before Examiner Williams, briefs have now been filed, and the matter is ready for decision.

The evidence indicates that the pioneer settlers in Ventura County, located west of Piru Creek, in the area locally known as the "Piru



and Buckhorn District," appropriated and diverted water from Piru Creek for the irrigation of their lands. The notice of appropriation was signed by Prudencio Dominguez on January 9, 1875, and thereafter the landowners constructed ditches for irrigation use, the water system being commonly known as the "Piru water ditch." On June 29, 1887, Robert Strathearn, R. P. Strathearn, J. M. Horton, Hugh Warring and Prudencio Dominguez executed articles of incorporation of The Piru Water Company, and in return for its 2000 shares of capital stock of the par value of \$10 per share, issued to themselves, transferred to the company their interests in the Piru water ditch.

The articles of incorporation of the company stated that the purpose for which the company was formed was "to acquire and conduct water by means of ditches and flumes from the Piru River in and upon the lands lying between said river and the Sespe River in Ventura County, California, and to sell, use and dispose of said water for the purpose of irrigation, stock, household and general domestic use."

The by-laws of the company, adopted March 19, 1888, provided for the election of officers and directors, their duties; and among other things that the board of directors "shall declare dividends whenever the surplus profits shall admit of it."

Shortly thereafter David C. Cook acquired from Robert Strathearn a large portion of the land which was irrigated by the ditch, and from Strathearn and others in excess of 1800 of the 2000 shares of stock of Piru Water Company. He held this stock until 1900 or 1901, when he disposed of his land holdings and stock to the Piru Oil and Land Company.

The Piru Oil and Land Company sold parcels of the land which had been irrigated through Piru Water Company's system, sometimes transferring stock to the buyer and sometimes not. In 1922 it sold its last remaining tract of land to Hugh Warring, together with approximately 1740 shares of the stock of Piru Water Company.

In the early stages of its history The Piru Water Company had an open earth ditch system which was improved from time to time by the construction of concrete and terra cotta pipe lines to replace sections of ditch. It has supplied water not only to stockholders but to some consumers who own no stock. The rates charged in the earlier years provided for a lower price for water to stockholders than to nonstockholders. This distinction in rates was apparently wiped out about 1910 and at the present time all consumers pay a rate of \$8 per acre for four irrigations per annum when sufficient water is available.

No dividends were ever paid upon the stock of the company and only one assessment, amounting to a total of \$500, has been levied against the stockholders. Improvements of the property have been paid for entirely out of earnings, with the exception of a few instances where the company has paid for the pipe and consumers have furnished the labor of installation of extensions of the system.

In 1896 an action was commenced in the superior court of Ventura County, entitled *Hargrave et al. vs. Cook et al.* In this action The Piru Water Company was a party defendant. The judgment in this action decreed that Piru Water Company was the owner of 285 inches of water, measured under a four-inch head, of Piru Creek, and that this water was appurtenant to certain parcels of land through which the company's ditch ran.

In 1905 The Piru Water Company failed to pay the license tax required by statute and has never paid any license tax since. It was stipulated at the hearing in this proceeding that it had forfeited its charter in 1905, and that it has never been revived or restored to corporate capacity. Since that time the affairs of the concern have been carried on substantially as before, the stockholders meeting annually as was the practice during the period prior to 1905. It appears that consumers who were nonstockholders attended many of these meetings and in some cases voted with the stockholders. Rates were fixed through agreement at these meetings.

What may or may not be the present legal status of this utility we do not believe to be the function of this Commission to decide. As will be developed below, we are convinced that it has operated and is now operating as a public utility and that as such its rates fall within the jurisdiction of this Commission. Our jurisdiction to fix such rates has been invoked by proceedings regular in form, a public hearing has been held, the owners of all but four out of 2000 shares in the company have appeared, and testimony has regularly been presented by which it appears that certain changes in the rates to be charged by the owners of this utility should be made. Our order will direct that the owners of this public utility water system be authorized to file certain rate changes.

There is no relation between the ownership of the system, as represented by the shares of stock in the defunct corporation, and the acre-

ge irrigated by the water system. This condition is clearly shown by the following tabulation:

Owners or consumers	Ownership of system		Acres irrigated	
	Shares of stock	Per cent of total	Acres	Per cent of total
Warring	1,183	50.15	34.0	9.4
C. Warring	222	11.10	0.0	0.0
S. Warring	223	11.15	0.0	0.0
J. Warring	110	5.50	0.0	0.0
Totals—Warring interests	1,738	86.90	34.0	9.4
S. Chapman*	30	1.50	20.0	5.5
D. Clark*	15	0.75	11.4	3.2
Felsenthal*	36	1.80	16.0	4.5
Haase*	71	3.55	60.0	18.9
G. Edwards*	2	0.10	34.0	9.5
S. Johnson*	104	5.20	92.0	25.5
B. Whitaker	1	0.05	0.0	0.0
W. Davidson	1	0.05	0.0	0.0
G. Kerchoff	1	0.05	0.0	0.0
Hellman	1	0.05	0.0	0.0
E. Spencer*	0	0.00	4.0	1.1
G. Young*	0	0.00	25.0	6.9
Wm Hatcher*	0	0.00	5.0	1.4
H. Padelford*	0	0.00	9.0	2.5
Utchinson Brothers*	0	0.00	60.0	16.6
Totals of all others than Warring interests	262	13.10	326.4	90.6
Totals—all interests	2,000	100.00	360.4	100.0

\*Protestants in this proceeding.

The eleven protestants in this proceeding own an undivided 258/2000 interest in, or 12.9 per cent of the entire property, and irrigate 326.4 acres or 90.6 per cent of the total acreage. Of the eleven protestants, five own no interest whatever in the water system but irrigate 103 acres or 28.5 per cent of the total acreage.

The question as to whether the service rendered by this water system is a public utility service is of great importance in this proceeding. In the opinion of the Commission, the only evidence having any weight whatever as to the mutual character of the operations of this water system was the affidavit of William A. Ramsay, who acted as secretary of the concern, made in 1919, claiming exemption from income tax return on the ground that it was a mutual water company. The conduct of the business was, however, of such a character as to nullify the affidavit.

The Piru Water Company was incorporated "to acquire and conduct water by means of ditches and flumes from the Piru River in and upon the lands lying between said river and the Sespe River in Ventura County, California, and to sell, use and dispose of said water for the purpose of irrigation, stock, household and general domestic use." The by-laws of the company provide, among other things, that the board of directors "shall declare dividends whenever the surplus profits shall admit of it." Nothing in the articles of incorporation or

the by-laws indicates that the concern was to be operated as a mutual water company.

Both before and after the corporation became defunct water was sold to certain consumers who were not stockholders. Furthermore there never was any relation between the shares of stock owned and the acreage irrigated, and at the present time we find that the owners of 28.5 per cent of the irrigated land have no interest whatever in the water system. There was clearly a "holding out" to sell water to who ever applied within the area adjacent to the system and within the limit of supply.

Protestants allege that title to the system is vested in the consumers who have paid for the construction of the present physical property. We can not agree with protestants in this regard as the evidence indicates that the revenues from the sales of water were used in rebuilding the system except the construction of certain extensions which were built with pipe and other material furnished by the company and installed by or at the expense of the consumers. In some instances the evidence shows that consumers received credits on bills for water used for the work performed in installing pipe.

Careful consideration of the evidence submitted indicates that this water system is a public utility subject to the jurisdiction of this Commission. It is also evident that this Commission must now proceed to fix rates to be charged for water delivered to consumers. Consumers supplied by this water system, who apparently fear that the Warring interests may dominate the affairs of the utility to such an extent that the interests of consumers will be affected injuriously, may be assured that this Commission will require that the utility file uniform and nondiscriminatory rules and regulations to govern the delivery of water and relations with consumers.

James E. Barker, consulting engineer for applicants, submitted report at the hearing which showed an estimated original cost of the operative property of the utility amounting to \$27,124; a depreciation annuity, calculated by the 6 per cent sinking fund method, of \$393 and an estimate of reasonable maintenance and operation expense of \$2,430. Necessary annual charges, based upon the foregoing items were shown as follows:

Return at 8% on \$27,124.....	\$2,170 00
Depreciation annuity .....	393 00
Maintenance and operation expense.....	2,430 00
Total.....	\$4,993 00

Mr. Barker testified that the average quantity of water available is a flow of 218 inches, and that, on the basis of 2.25 hours use of the full flow of water per acre, allowing four irrigations per annum, there

ould be required a total of approximately 707,000 inch-hours of water er year to irrigate the 360 acres now supplied. Based upon estimated ecessary annual charges of \$4,993, a charge of \$0.00706 per inch-hour ould be required.

The present rates charged for water are \$8 per acre per year for our irrigations, and this charge is equivalent to approximately \$0.004 er inch-hour.

F. H. Van Hoesen, one of the Commission's hydraulic engineers, resented a report at the hearing which showed an estimated original ost of the system amounting to \$25,006; a reasonable depreciation nnuity of \$245; and an estimate of reasonable maintenance and peration expense of \$2,350 per year. Operating revenues for 1920 ere \$2,701; for 1921 were \$2,675; and for 1922 amounted to \$2,863.

Based upon the foregoing items the results of operation for the year 922 were as follows:

Operating revenues -----	\$2,863 00
Expenses:	
Maintenance and operation -----	\$2,350 00
Depreciation annuity -----	245 00
Total -----	2,595 00
Net revenues -----	\$268 00

A net revenue of \$268 is equivalent to a return of 1.07 per cent on n estimated cost of \$25,066.

Testimony of Hugh Warring was to the effect that he purchased erty acres of land and 1783 shares of the 2000 shares of the capital tock of The Piru Water Company in 1922 for \$20,000, and that he onsidered the land worth \$10,000 and the stock worth the same amount.

Consideration of the evidence indicates that the utility is entitled to n increase in rates and the schedule of charges established in the ecompanying order is designed to produce sufficient revenue to cover maintenance and operation expense, depreciation annuity, and what, under the circumstances, is at this time a reasonable return upon the air value for rate fixing purposes of the property devoted to the ublic use.

#### ORDER.

Application having been made to this Commission as entitled above, . public hearing having been held thereon, briefs having been filed, he matter having been submitted, and the Commission being now ully informed in the matter:

It is hereby found as a fact that the owners of the water system nown as The Piru Water Company are operating a public utility water ompany as defined by the Public Utilities Act and are subject to regu-

lation by this Commission; and that the rates now charged by the said public utility are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

*It is hereby ordered*, that the owners of the public utility water system known as The Piru Water Company be and the same are hereby authorized to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water supplied to consumers for irrigation purposes, in the vicinity of Piru, Ventura County, subsequent to December 31, 1923:

*Irrigation Rates.*

Per miner's inch per hour----- \$0.006

The miner's inch will be a flow of water equivalent to 1/50 of a cubic foot per second.

*It is hereby further ordered*, that the owners of the public utility water system known as The Piru Water Company be and the same are hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this third day of October, 1923.

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DECISION No. 12683.

IN THE MATTER OF APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY FOR AN INTERPRETATION OF CONTRACT BETWEEN SIERRA AND SAN FRANCISCO POWER COMPANY AND COAST VALLEYS GAS AND ELECTRIC COMPANY; AND FOR A DETERMINATION OF THE CONDITIONS OF SERVICE TO BE RENDERED BY PACIFIC GAS AND ELECTRIC COMPANY, LESSEE OF SIERRA AND SAN FRANCISCO POWER COMPANY TO COAST VALLEYS GAS AND ELECTRIC COMPANY UNDER SAID CONTRACT.

Application No. 8634.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FIXING AND ESTABLISHING THE RATES, TERMS AND CONDITIONS UNDER AND IN ACCORDANCE WITH WHICH APPLICANT SHALL FUR-

NISH AND SUPPLY ELECTRIC SERVICE TO THE COAST VALLEYS  
GAS AND ELECTRIC COMPANY FOR RESALE PURPOSES.

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Application No. 8645.Decided October 4, 1923.

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*amcs F. Pollard*, for Coast Valleys Gas and Electric Company.  
*P. Cutten*, for Pacific Gas and Electric Company.

BY THE COMMISSION.

## OPINION.

These applications involve the rates and conditions of service affecting the wholesale delivery of electrical energy by Pacific Gas and Electric Company, lessee of the system of Sierra and San Francisco Power Company to Coast Valleys Gas and Electric Company, for distribution and resale.

For convenience, Pacific Gas and Electric Company will hereinafter be referred to as "Pacific Company," Sierra and San Francisco Power Company as "Sierra" and Coast Valleys Gas and Electric Company as "Coast Valleys."

The Sierra system as involved in this matter consists of certain hydro-electric plants located along the Stanislaus River and the Tuolumne River, having a total capacity of approximately 36,000 kilowatts, a 104,000-volt steel tower transmission line approximately 35 miles long to San Francisco where there is situated a steam generating plant of approximately 27,000 kilowatts capacity. About 100 miles from the hydro-electric plants the transmission line is tapped at a point known as Port Marion and a 55,000-volt transmission line, supported partly on wood poles and partly on steel towers, extends about 75 miles to Salinas, where delivery is made to the Coast Valleys. This transmission line is devoted entirely to the service of the Coast Valleys and two other large consumers.

Coast Valleys transmits energy from Salinas 15 miles westerly to Monterey and 45 miles southerly to King City and operates distribution systems supplied from substations located along the two transmission lines. Small steam plants are operated for standby purposes at Monterey, Salinas and King City, but almost all energy required is purchased. The peak load of the Coast Valleys is in the neighborhood of 7000 kilowatts and its annual consumption of energy close to 20,000,000 kilowatt hours.

The delivery of this energy is made under a contract dated January 2, 1913, between the Coast Valleys and the Sierra, into which the

Pacific Company entered on January 1, 1920, as lessee of the Sierra property. The principal provisions of the contract were that the Sierra was to loan to the Coast Valleys, free of charge, certain substation transformers, that energy should be delivered at 55,000 volts with a permissible range of  $2\frac{1}{2}$  per cent plus or minus, that during such times as Sierra might be unable to deliver energy, it would bear certain of the costs of operation of Coast Valleys steam plants, that the rate for service expressed in cents per kilowatt hour should be 1.3 less the monthly load factor expressed as a decimal and that at certain intervals this rate should be subject to readjustment. Since the execution of this contract, the Sierra and the Pacific Company, as lessee of its system, have both applied to this Commission for authority to increase their rates to meet increased cost of operation and such increases as have been authorized have applied to this contract as well as to the rates charged other consumers. The contract rate has not been otherwise modified.

By Decision No. 11457, dated December 30, 1922, this Commission eliminated temporary increases in rates which had theretofore been granted, and fixed new schedules applicable to all classes of service supplied by the Pacific Company. One of these schedules applies to service of the character delivered to the Coast Valleys but the Pacific Company and the Coast Valleys are unable to agree as to the extent to which the original contract and rate provided therein are superseded or modified by this schedule.

In Application No. 8645 the Pacific Company alleges that the two companies are unable to agree upon the character of service that should be supplied and the charges to be made for it and asks that the Railroad Commission fix the rates and conditions of service. Application No. 8634 of the Coast Valleys is substantially the same, for while certain specific relief is requested, the Commission is also asked to grant such other and different relief as it may find just and reasonable.

It is at once apparent that the rate to be charged for a given service and the conditions and quality of that service must go hand in hand. In this case the Commission has already, after full consideration, established a uniform rate to be charged by the Pacific Company for electric service for resale purposes and it seems that the question now raised by the two parties in this proceeding may be best answered by fixing corresponding conditions of service. Such conditions as may be here fixed will, of course, apply specifically only to the delivery now under consideration but it is desirable that they conform to the general requirements affecting other similar deliveries of energy.

Considering the matter in its general aspect and passing for the moment the question of the division of ownership, we have a large



system of generating plants, transmission lines, substations and distributing lines all used in the production of steam and hydro-electric energy and in its transmission and delivery to the ultimate consumer. Adequate facilities must be provided in this system in order that the consumers may receive the proper quality of service, and the most advantageous location of certain of these facilities is determined by engineering and economic consideration. It is clear that in spite of the division of ownership, service can be supplied to the ultimate consumer at the least total cost when such facilities are most economically located.

In the particular case now before us, one of the principal sources of argument is the question of voltage regulation. Energy is not delivered by the Pacific Company at each of the Coast Valleys substations, but is delivered to the Coast Valleys transmission line, and consideration must herefore be given to the voltage regulation of the transmission lines between the points of delivery and the substations.

After an investigation by our engineering department into the operating practices of other large power systems in the state and the character of apparatus in use, we have come to the conclusion that the total daily variation in voltage as measured at the points of delivery should not exceed 15 per cent. The construction of the substation transformers is such, however, that an additional change in voltage amounting to 10 per cent of normal may be compensated for, provided opportunity is given for the making of necessary changes in high voltage connections. The making of such changes must be limited to the occasions when they are necessary to compensate for seasonal rather than daily changes in load conditions, and provision will therefore be made in the order accompanying this opinion for a seasonal variation in the normal voltage.

The investigation by the Commission's engineering department since the submission of evidence, indicates that the design of the transmission line and the choice of the transformers at Port Marion substation, taken in connection with present load conditions, will make it exceedingly difficult for the Pacific Company to maintain a minimum voltage within  $7\frac{1}{2}$  per cent of the voltage of 55,000 specified in the original contract. As the load continues to increase, it will probably become impossible to meet the requirements now laid down without the installation of additional facilities. It appears, however, that the obligation to cope with the increasing demands made upon the line, is upon the Sierra as the owner or the Pacific Company as the lessee, rather than upon the Coast Valleys as a user from the line. We will therefore adopt as a normal voltage for this service, the voltage that was agreed upon by the Sierra and Coast Valleys at the time the line was constructed.

We are convinced that the operating department of the Pacific Company is making an earnest effort to supply the Coast Valleys with the best possible service, and it appears from the evidence that during the past year service has been generally satisfactory. During the previous years, however, there has been just cause for complaint on the part of the Coast Valleys and as its load grows and the facilities of the Pacific Company become taxed, there is danger that these troubles may be renewed. In order that the rate paid may be commensurate with the quality of service supplied and that the Coast Valleys may be partially protected against increased costs of operation occasioned by poor service, discounts will be made applicable during any periods when service does not comply with the standards herein established.

The agreement of January 2, 1913, called for the delivery of energy at Salinas, and at that time a single circuit was constructed to that point from Port Marion. When a second circuit was proposed in 1919, an agreement was reached whereby the Sierra and the Pacific Company as lessee of its system, furnished the same amount of material and labor that would have been needed to build this second circuit to Salinas, but by following a different route, connection was made at a more advantageous point in the Coast Valleys system known as Alisal. The Coast Valleys now asks that for purposes of measurement, these two points of delivery be considered as one. The Pacific Company concedes the reasonableness of this request and the order accompanying this opinion will so provide.

The rate under which the Coast Valleys will hereafter be charged for service is based upon the delivery of energy at high tension voltage, and it is not contemplated that the selling company will furnish transformers. The use by the Coast Valleys of the substation transformers specified in the agreement of January 2, 1913, is therefore a service not normally covered by this rate, and additional compensation should be provided if this use is to continue. Provision should be made for the purchase or surrender of these transformers by the Coast Valleys or for the payment of a reasonable rental therefor.

We will not, at this time, consider in detail the facilities which will have to be installed by the Pacific Company in order to comply with the standards of service herein established, nor by the Coast Valleys in order to give adequate service to its consumers, but upon the failure of either party to render a proper quality of service, the matter will be reopened for further order should the same appear necessary.

#### ORDER.

Coast Valleys Gas and Electric Company and Pacific Gas and Electric Company having applied to the Railroad Commission for an order

fixing and establishing the rates, terms and conditions under and in accordance with which electric service for resale purposes shall be supplied to Coast Valleys Gas and Electric Company by Pacific Gas and Electric Company, as lessee of the system of Sierra and San Francisco Power Company, a public hearing having been held, the matter being submitted and now ready for decision;

*It is hereby ordered, that:*

(1) For the purposes of billing, electric power and energy delivered to Coast Valleys Gas and Electric Company at Salinas and at Alisal, shall be considered as delivered at one point.

(2) The normal voltage at which said electric energy is to be delivered, shall be fixed by Pacific Gas and Electric Company between 55,000 and 60,000 volts, provided that on not less than five days notice and not oftener than four times each calendar year, except by mutual agreement, Pacific Gas and Electric Company may change the normal voltage within these limits.

(3) Pacific Gas and Electric Company shall at all times maintain the voltage of its transmission lines at Salinas and at Alisal within  $7\frac{1}{2}$  per cent of the normal voltage in effect at the time as provided in section 2 of this order.

(4) Effective January 1, 1924, the rates and charges to be paid by Coast Valleys Gas and Electric Company for electric energy delivered to it at Salinas and Alisal by Pacific Gas and Electric Company, lessee, shall be as set forth in schedule P-6 of Pacific Gas and Electric Company as established by Decision No. 11457 of this Commission modified by the reduction of the "Demand Charge" by one-tenth cent per kilowatt of maximum demand for each minute of the duration of all total interruptions in delivery of energy at both Salinas and Alisal exceeding ten minutes each, and further modified by reduction of the energy charge by one-quarter cent per kilowatt-hour during each hour during which for fifteen or more consecutive minutes the voltage at which such energy is delivered departs more than  $7\frac{1}{2}$  per cent but less than 10 per cent from normal and by one-half cent per kilowatt-hour during each hour during which for fifteen or more consecutive minutes such voltage departs more than 10 per cent from normal, provided that no modification of rate shall be made because of interruptions or abnormal voltage occurring on Sundays or holidays or between the hours of midnight and six a.m. if the same be wholly or partially due to the prosecution of repair or construction work upon any part of Pacific Gas and Electric Company's electric system and if Pacific Gas and Electric Company shall have given Coast Valleys Gas and Electric Company three days advance notice of such work and of the probability of such interruption or abnormal voltage, nor shall there be included in

the duration of any interruption or period of abnormal voltage upon which modification of rate is based any time during which Coast Valleys Gas and Electric Company shall fail or be unable to receive energy which Pacific Gas and Electric Company is able to deliver to it.

(5) From February 1, 1923, to January 1, 1924, Coast Valleys Gas and Electric Company shall pay for electric energy delivered to it by Pacific Gas and Electric Company the rates and charges set forth in said schedule P-6.

(6) Unless Coast Valleys Gas and Electric Company shall elect to surrender the use of the substation transformers loaned to it by Sierra and San Francisco Power Company, in accordance with the terms of their agreement of January 2, 1913, or shall purchase said transformers from Pacific Gas and Electric Company, lessee, at a price to be mutually agreed upon, Coast Valleys Gas and Electric Company shall pay as rental for the use of said transformers, an annual sum equivalent to 10 per cent of the investment in said transformers, and shall also pay all costs of operation and maintenance, such payments of rental and operating and maintenance costs to date from January 1, 1924.

(7) The effective date of this order shall be November 1, 1923.

Dated at San Francisco, California, this fourth day of October, 1923.

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DECISION No. 12685.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE OF TWENTY-SIX THOUSAND FIVE HUNDRED DOLLARS PAR VALUE OF ITS FIRST MORTGAGE BONDS AND THE SALE OF ONE THOUSAND SHARES OF ITS CAPITAL STOCK.

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Application No. 9418.

Decided October 10, 1923.

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*L. C. Torrance*, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled application Santa Monica Bay Home Telephone Company asks permission to issue and sell \$26,500 face value of its 5 per cent first mortgage bonds due October 15, 1937, and to issue and sell 1000 shares (\$100,000 par value) of its common capital stock for the purpose of paying, in part, the cost of acquiring and constructing properties referred to below.

Santa Monica Bay Home Telephone Company reports \$250,000 of common capital stock outstanding and in the hands of the public. In addition, the company has issued \$250,000 of common stock pursuant to the authority granted by the Commission in Decision No. 8695, dated March 3, 1921. (Volume 19, Opinions and Orders of the Railroad Commission of California, page 448.) The \$250,000 of stock issued pursuant to authority granted in Decision No. 8695 has been deposited under an escrow agreement with the Title Insurance and Trust Company. The Commission's order provides that the company may not dispose of the \$250,000 of stock in any manner whatsoever except as authorized by the Railroad Commission. The company asks that the escrow agreement be canceled and the stock returned to its treasury for the purpose of sale. The order in Decision No. 8695 will be modified so as to permit the return of the \$250,000 of common stock to applicant's treasury.

Until recently, the company had outstanding \$250,000 of preferred stock. The company's articles of incorporation have been amended and the preferred stock exchanged for common stock. An 8 per cent dividend has been paid on the preferred stock during the past two years.

Santa Monica Bay Home Telephone Company has an authorized bond issue of \$500,000. The payment of the bonds is secured by a first mortgage on its properties. The bonds bear interest at the rate of 5 per cent per annum and mature October 15, 1937. To September 30, 1923, the company has issued \$472,500 bonds, of which \$1,500 have been canceled, leaving \$471,000 outstanding. The \$26,500 of bonds which applicant now asks permission to issue, have never been certified by the trustee. When these bonds are certified and issued all of the company's authorized first mortgage bonds will have been issued. Following the issue of the \$26,500 of bonds, the company's annual interest charge on first mortgage bonds will amount to \$24,875. For 1920 the company reports available for the payment of interest, other fixed charges and dividends the sum of \$30,786.49; for 1921 the sum of \$55,604.34; and for 1922 the sum of \$65,755.10. After paying bond interest and other fixed charges the company had available for dividends and surplus the sum of \$7,308.66 in 1920; the sum of \$29,734.62 in 1921; and the sum of \$44,453.48 in 1922. The testimony of L. C. Torrance shows that applicant's earnings for 1923 will be in excess of those for 1922.

It is of record that applicant's business has been increasing very rapidly and that applicant has not been able to obtain the necessary equipment to meet all of the demand for telephone service.

The application shows that the company from January 1, 1923, to September 30, 1923, has expended \$105,000 for automatic equipment, power equipment, aerial and underground cable, telephones, wires and other additions and betterments. It has entered into contracts for automatic equipment costing \$97,500. It estimates that from \$50,000 to \$60,000 will have to be expended within the near future for cable; \$17,500 for 1000 telephones and \$25,000 for installing the new equipment and telephones. It is for the purpose of paying, in part, for the additional equipment and its installation that applicant asks permission to issue \$26,500 of bonds and \$100,000 of stock.

#### ORDER.

Santa Monica Bay Home Telephone Company having applied to the Railroad Commission for permission to issue \$26,500 of bonds and \$100,000 of common stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds and stock is reasonably required by applicant and that this application should be granted as herein provided; therefore

*It is hereby ordered*, that the Santa Monica Bay Home Telephone Company be and it is hereby authorized to issue and sell for cash at not less than 83½ per cent of their face value and accrued interest \$26,500 of its first mortgage 5 per cent bonds due October 15, 1937, and to issue and sell at not less than \$96 net per share, one thousand shares (\$100,000) of its common capital stock, provided that the net proceeds from the sale of the bonds and stock be used to finance, in part, the cost of acquiring, constructing and installing the properties described in this application.

The authority herein granted is subject to further conditions as follows:

1. Santa Monica Bay Home Telephone Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue bonds and stock will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$27. The authority to issue bonds and stock will expire on July 1, 1924.

Dated at San Francisco, California, this tenth day of October, 1923.

## DECISION No. 12691.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF A PROPOSED UNIFORM CLASSIFICATION OF ACCOUNTS FOR GAS CORPORATIONS HAVING ANNUAL OPERATING REVENUES OF MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

Case No. 1940.

Decided October 13, 1923.

**GAS UTILITY—UNIFORM SYSTEM OF ACCOUNTS.**—Gas corporations having annual operating revenues of more than \$250,000 are directed, on and after January 1, 1924, to keep their accounts and records in accordance with the uniform system of accounts contained in Commission's "Exhibit A Amended," filed with this proceeding, initiated by the Commission.

Gas corporations having annual operating revenues of \$250,000 or less shall continue to keep their accounts and records in accordance with the Commission's uniform system of accounts effective January 1, 1913.

*J. T. Ryan, H. T. Terry*, for Pacific Gas and Electric Company.

*B. B. Stith*, for Western States Gas and Electric Company.

*James F. Pollard*, for Coast Valleys Gas and Electric Company.

*Arthur F. Bridge*, for Southern Counties Gas Company of California.

*A. B. Carpenter*, for San Joaquin Light and Power Corporation.

*J. A. Cannon*, for San Diego Consolidated Gas and Electric Company.

*O. L. Moore*, for Los Angeles Gas and Electric Corporation.

*Chas. T. Hills*, for Sacramento Gas Company.

WHITTLESEY, *Commissioner*.

**OPINION.**

This is a proceeding instituted on the Commission's own motion for the purpose of fixing and prescribing a new classification of accounts, hereafter referred to as a uniform system of accounts, for gas corporations whose annual operating revenues exceed \$250,000.

The gas corporations affected by the proposed change were notified of the hearing held herein and given a chance to appear and show cause, if any they had, why the Commission should not adopt and prescribe a uniform system of accounts similar to that on file in this proceeding and marked Commission's "Exhibit A."

At the hearing certain changes were suggested by representatives of several companies. These changes have been considered. In so far as we deem them practical, we have incorporated the changes in the Commission's "Exhibit A," which exhibit has been revised and a copy of the revised draft filed in this proceeding and marked Commission's "Exhibit A Amended."

The foregoing system of accounts prescribed or adopted by the order contained herein must be kept by all gas corporations having annual operating revenues in excess of \$250,000. Such corporations will, on

and after January 1, 1924, be relieved from keeping their accounts and records relating to gas operations, as required by the uniform system of accounts now in effect. Gas corporations having annual operating revenues of \$250,000 or less, must continue to keep their accounts and records, as required by the Commission's uniform system of accounts effective January 1, 1913, and now in effect.

Section 48 of the Public Utilities Act provides that—

Where the Commission has prescribed the forms of accounts records or memoranda to be kept by any public utility for any of its business it shall thereafter be unlawful for such public utility to keep any accounts, records or memoranda for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States excepting such accounts records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by the Commission.

I herewith submit the following form of order:

#### ORDER.

A public hearing having been held in the above entitled matter and the Commission having given due consideration to the evidence submitted at such hearing;

*It is hereby ordered and directed*, that all gas corporations having annual operating revenues in excess of \$250,000 must, on and after January 1, 1924, keep their accounts and records in accordance with the uniform system of accounts contained in the Commission's "Exhibit A Amended," filed in this proceeding, which uniform system of accounts is hereby adopted and prescribed by the Railroad Commission for gas corporations having annual operating revenues in excess of \$250,000.

*It is hereby further ordered and directed*, that gas corporations having annual operating revenues in excess of \$250,000 be and they are hereby relieved, on and after January 1, 1924, from keeping their accounts and records relating to gas operations in accordance with the uniform system of accounts effective January 1, 1913, and now in effect.

*It is hereby further ordered and directed*, that gas corporations having annual operating revenues of \$250,000 or less must continue to keep their accounts and records relating to gas operations, in accordance with the uniform system of accounts effective January 1, 1913, and now in effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of October, 1923.



## DECISION No. 12699.

IN THE MATTER OF THE APPLICATION OF SISKIYOU TELEPHONE COMPANY FOR ORDER AUTHORIZING PURCHASE FROM INDEPENDENT TELEPHONE COMPANY OF ITS PROPERTY AND FRANCHISE.

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Application No. 9325.Decided October 13, 1923.

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*J. M. Allen*, for Independent Telephone Company.

By THE COMMISSION.

## OPINION.

In this proceeding authorization of this Commission is requested by Independent Telephone Company to transfer the telephone line and appurtenances owned by it to Siskiyou Telephone Company and by Siskiyou Telephone Company to purchase said line.

The property which it is desired to transfer is more particularly described as a one-wire "grounded" line consisting of fourteen miles of No. 12 B. W. G. galvanized iron wire, supported by four hundred small poles of native timber, formerly extending from Fort Jones to Etna Mills. In addition, rights of way to the value of \$75 and ten magneto wall-type telephone instruments are included in the transfer.

A public hearing on this matter was held by Examiner Satterwhite in Etna Mills on September 27, 1923.

Service over the Independent Telephone Company's line is at present furnished by the Siskiyou Telephone Company on the farmer-line basis from the latter company's Fort Jones and Etna Mills exchanges, the line being cut at a point between these two towns and part of the subscribers being served from Fort Jones and the remainder from Etna Mills. Siskiyou Telephone Company proposes to render suburban service at the regular filed rates for such service from its Fort Jones and Etna Mills exchanges to these subscribers. It was shown at the hearing that under this proposal of the Siskiyou Telephone Company, an increase in rates to subscribers now served on the farmer-line basis from \$0.50 per month to \$2 per month would result. No complaint was made regarding this change in rates by anyone at the hearing.

It appears from the testimony that those subscribers who are connected with the Fort Jones exchange have been receiving poor service due to the condition of the line and inductive interference from neighboring power lines. To remedy these difficulties it appears that it will

be necessary to metallicize this grounded line. Mr. Dannenbrink of Siskiyou Telephone Company testified that his company was ready and willing to undertake such reconstruction if authorization is obtained to purchase the line.

The Independent Telephone Company filed an exhibit in this proceeding showing an estimated cost of the line, including franchises, to be \$875, and it appears that the sale price of \$500 is not unreasonable.

#### ORDER.

An application having been filed with the Railroad Commission involving the transfer of the telephone property owned by Independent Telephone Company to Siskiyou Telephone Company, a public hearing having been held, the matter having been submitted, and the Commission being fully apprised and of the opinion that the granting of the authority herein requested will be in the public interest;

*It is hereby ordered*, that Independent Telephone Company be and it is hereby authorized to sell and Siskiyou Telephone Company be and it is hereby authorized to purchase the telephone system of Independent Telephone Company located in the vicinity of the towns of Fort Jones and Etna Mills and more particularly described in the form of agreement filed in this matter and identified as "Exhibit E"; and

*It is hereby further ordered*, that Siskiyou Telephone Company be and it is authorized to charge and collect for telephone service rendered over said telephone system its rates now on file with the Railroad Commission for suburban telephone service and such other rates as may, from time to time, be filed with and approved by the Railroad Commission, provided that before such rates may be applied the Siskiyou Telephone Company shall:

(a) Construct a metallic telephone line from its Fort Jones exchange following the same general route as now followed by Independent Telephone Company's line and connect the present subscribers of Independent Telephone Company with such metallic line. This work shall be completed within sixty (60) days after the acquisition of the property by the Siskiyou Telephone Company.

(b) Connect the present subscribers of the Independent Telephone Company served from Etna Mills exchange with an existing suburban line or so reconstruct the line from which such subscribers are at present served that suburban service may be rendered.

The authority herein granted is upon the following conditions and not otherwise:

1. Within sixty (60) days after the acquisition of the telephone property of Independent Telephone Company, Siskiyou Telephone Company shall file with the Railroad Commission for approval a stipulation

duly authorized by its board of directors declaring that Siskiyou Telephone Company, its successors and assigns, will never, in any proceeding before the Railroad Commission or any other public authority, claim any value for any franchises or permits acquired from Independent Telephone Company in excess of the amount paid by the original grantee of such franchises or permits to the public authority granting the same, which amount shall be specified in said stipulation.

2. The consideration at which the public utility properties are herein authorized to be transferred shall not be considered as a measure of the value of said properties for any purpose other than the transfer herein authorized.

3. The authority herein granted will apply only to such transfer as may be made on or before December 1, 1923.

Dated at San Francisco, California, this thirteenth day of October, 1923.

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DECISION No. 12700.

C. BOLTON AND T. J. BENNETTS

vs.

OLSON AND ROUCH AND WALTER WILLIAMS.

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Case No. 1787.

Decided October 13, 1923.

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**CERTIFICATE—AUTO TRUCKS—JURISDICTION.**—Claimed that in case of operation exclusively under contracts and not as a common carrier, and where a portion of a route is not on public highways that jurisdiction of the Railroad Commission does not exist. Held that statutory provisions empower and require the Commission to take jurisdiction and to decide issue upon facts as ascertained from the record.

**CONTRACT HAULING.**—Transportation of property over the public highways for compensation even though ultimate destination is at a terminus reached by private roads is, in so far as the route follows public highways, subject to the jurisdiction of the Commission under the statutory enactment and requires the authority conferred by a certificate of public convenience and necessity. Operation found to be in violation of the statutory law and conclusion reached that service should be suspended pending compliance with the requirements of the statute.

*Gallagher, Simpson and Hays*, by *W. E. Simpson*, for Complainants.

*L. L. Cory* and *W. H. Stammer*, for Olson and Rouch, Defendants.

*F. H. Pearson*, for Walter Williams, Defendant.

*Herbert J. Goudge*, for Sugar Pine Lumber Company, Intervenor in behalf of Olson and Rouch, Defendants.

BY THE COMMISSION,

## OPINION.

C. Bolton and T. J. Bennetts, copartners, operating automobile freight service between Fresno, Friant, South Fork and intermediate points under the authority contained in this Commission's Decision No. 9526 on Application No. 6779 as decided September 19, 1921, complain of defendants, Olson and Rouch and Walter Williams and allege that said defendants are operating automobile trucks for compensation between Friant and North Fork and intermediate points over and along the same route covered by the certificate of public convenience and necessity heretofore granted by this Commission; that such operation is being conducted without any certificate of public convenience and necessity having been obtained from this Commission as required by the statutory law. Complainants pray for an order of this Commission determining the status of the operation alleged to be conducted by defendants and requiring said defendants, and each of them, to hereafter desist and refrain from the transportation of freight for hire between Friant and North Fork and over and along the roads and routes covered by certificate issued to complainants.

Defendants Olson and Rouch filed their answer herein alleging that the operation being conducted by them was under contracts with two companies; that no hauling was done except in the performance of said contracts; that they were not operating as common carriers for hire and that this Commission has no jurisdiction or control over these defendants or the subject matter of the complaint in so far as such complaint is applicable to them.

Defendant Walter Williams filed his answer herein denying that he was engaged in the transportation of freight as a common carrier for hire; alleges that he is engaged in operating trucks from Fresno and from Friant to Brown's Creek Warehouse, located in the vicinity of Crane Valley Dam; that such hauling is exclusively for the San Joaquin Light and Power Corporation under a contract with such corporation; that this defendant is not now and has not at any time offered to transport property for the general public as a common carrier between the points alleged by complainants, or any other points; that this Commission is without jurisdiction over this defendant in that the complaint does not allege that this defendant is a common carrier operating for hire in the transportation of freight between fixed termini over designated routes.

A public hearing was conducted by Examiner Handford at Fresno, the matter was duly submitted following the receipt of briefs from counsel for defendants and intervenors and is now ready for decision.

We will first consider the question of jurisdiction as raised by

attorneys for defendants. Subsection (c) of section 1 of chapter 213, Statutes of 1917, and effective amendments, defines a transportation company as "every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town or of a city and county." Subsection (e) of section 1 of the above mentioned enactment contains the following provision:

Whether or not any automobile, jitney bus, auto truck, stage or auto stage is operated by a transportation company "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the finding of the railroad commission thereon shall be final and shall not be subject to review.

Section 5 of the above mentioned enactment requires transportation companies to secure certificate of public convenience and necessity from the Railroad Commission first before beginning operation for the transportation of persons or property, for compensation, on any public highway in this state.

Under the statutory law hereinabove referred to, the Commission is empowered by legislative mandate to take jurisdiction over the matters which are issues in this proceeding and to decide such issues upon the facts as ascertained from the record.

It appears from the evidence herein that defendants Olson and Rouch have operated between Fresno and Friant to construction camps of the Warren Construction Company and the Sugar Pine Lumber Company in Madera and Fresno counties, such operations having been under the provisions of certain contracts. The contract with the Sugar Pine Lumber Company was executed under date of June 10, 1922, and provides for the movement of all supplies, material, tools, equipment, etc., from any point to any point in Fresno and Madera counties for the year ending May 1, 1923, at definite rates as specified in the contract. The contract with the Warren Construction Company was executed under date of February 28, 1922, and provides for the transportation of materials, equipment and supplies required by the Warren Company to and from points in Fresno and Madera counties as necessary in the construction of railroads for the Minarets and Western Railway Company or the Sugar Pine Lumber Company, for a term ending April 1, 1923. The hauling by defendants Olson and Rouch under these contracts has resulted in as many as 30 trucks being devoted to such work, the operation being principally between Friant

and the camps of the Warren Construction Company. Occasional trips have been made from Fresno to the construction camps.

In the transportation of materials and property under these contracts defendants Olson and Rouch use the county highway between Fresno and Friant, and from Friant to the junction with private roads leading to construction camps, the highways used being the same as are used by the complainants under their certificate. As much as 150 tons of freight per day has been moved under the contracts herein referred to.

Walter Williams, defendant herein, testified that he hauled materials and other property for the San Joaquin Light and Power Company under a contract executed under date June 8, 1922, and covering transportation from Fresno or Friant to Brown's Creek Warehouse in the vicinity of Crane Valley. The property transported under this contract is hauled over the county road, as also used by complainants in the operation of their certificate route, to North Fork or to a point known as "the Adobe" and thence over private roads to the Brown's Creek Warehouse.

The statutory law (chapter 213, Laws of 1917, and amendments thereto) establishing the status of truck operation which is subject to the regulatory jurisdiction of the Commission defines a transportation company as:

every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing, any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route; \* \* \*.

Section 5 of the statutory law above referred to requires that a transportation company before commencing operation, unless exempted by reason of having been actually operating in good faith at the time of the effective date of the enactment, secure a certificate from this Commission that the public convenience and necessity require such operation.

From the evidence herein the Commission is of the opinion and hereby finds as a fact that the transportation of property by auto truck by defendants Olson and Rouch and Walter Williams between Fresno and Friant, and between Friant and the points on the highway where divergence is made to private roads is operation for compensation over a regular route, and for which no certificate of public convenience and necessity has been applied for or granted by this Commission. The Commission has no jurisdiction, under the statutory law, over any operation conducted over private roads, but is empowered and directed by the legislative enactment to exercise jurisdiction over this class of transportation over any public highway in the state, and

paragraph (e) of section 1 of the Auto Stage and Truck Transportation Act (chapter 213, Laws of 1917, and amendments thereto) requires the Commission to determine whether stages or trucks operated "between fixed termini or over a regular route" by a transportation company is within the meaning of the statutory enactment.

The evidence in this proceeding shows that the transportation of property by defendants, in so far as such transportation is regularly conducted over the public highways en route to terminals which are reached by the use of private roads is "over regular routes" and therefore subject to the regulation of the Commission, and requires the authority conferred by a certificate of public convenience and necessity in accordance with the provisions of the above mentioned statutory law. No application for such certificate has been applied for or granted by the Commission to either of the defendants herein and the operation over the routes between Fresno and Friant and between Friant and the points on the public highway where divergence is made to private roads is hereby found to be in violation of the provisions of the statutory law.

#### ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted on the filing of briefs by counsel, the Commission being now fully advised, hereby finds as a fact that the defendants Olson and Rouch and Walter Williams have been, and now are, engaged in the operation of auto trucks over the public highway, for compensation, between fixed termini and over a regular route; that none of said defendants have obtained from this Commission a certificate declaring that public convenience and necessity require such operation.

And basing its conclusions upon the said findings of fact and upon the additional findings and statements of the within opinion, the Commission hereby concludes that the said operation should be discontinued pending the securing of a certificate as provided by chapter 213, Statutes of 1917, as amended; and

*It is hereby ordered*, that the secretary of this Commission be and he is hereby directed to serve or cause to be served by registered mail upon said defendants and each of them a certified copy of this decision; and

*It is hereby further ordered*, that the secretary of this Commission be and he is hereby directed to forward to the district attorneys of the counties in which such operations have been carried on a certified copy of this decision.

Dated at San Francisco, California, this thirteenth day of October, 1923.

## DECISION No. 12713.

IN THE MATTER OF THE APPLICATION OF THE ASSOCIATED TELEPHONE COMPANY FOR A PERMIT TO SELL TWO THOUSAND SHARES OF ITS CAPITAL STOCK AND FIVE HUNDRED THOUSAND DOLLARS OF ITS FIRST MORTGAGE AND COLLATERAL TRUST GOLD BONDS.

Application No. 9372.  
Decided October 15, 1923.

*G. B. Ellis, and S. R. Hefley, for Applicant.*

BY THE COMMISSION.

## OPINION.

In this application the Associated Telephone Company asks permission to issue and sell \$200,000 of common capital stock and \$500,000 of first mortgage and collateral trust 6 per cent bonds for the purpose of financing the cost of additions, betterments and improvements and of paying outstanding indebtedness. The company asks permission to sell its bonds at not less than 93 per cent of their face value, plus accrued interest, and its stock at par, less an allowance of \$3 per share of stock, sold to pay selling expenses.

Associated Telephone Company was organized on or about August 30, 1920, and is engaged in giving telephone service in and about the cities of Long Beach and San Bernardino. On December 31, 1920, it reported 13,042 subscribers, on December 3, 1921, 15,126 subscribers, on December 31, 1922, 17,210 subscribers and on August 31, 1923, 19,849 subscribers. For the year ending December 31, 1922, it reports revenues of \$486,708.64, operating expenses, including taxes and depreciation, as \$347,790.65, leaving a gross income of \$138,917.99. After paying interest on bonded debt, it reports net profits for the year as \$71,669.32. For the six months ending June 30, 1923, the company reports gross revenues of \$283,298.81, operating expenses as \$173,267.98, gross income of \$110,230.83 and net profits for the period of \$68,733.84.

The company was organized with an authorized capital stock of \$2,000,000, divided into 20,000 shares of the par value of \$100 each, all shares being common. At present it reports \$1,011,200 of stock outstanding on which there has been paid, since its issue, dividends at the rate of 8.4 per cent per annum. On August 31, 1923, applicant reports its outstanding bonded debt as \$1,129,200, consisting of \$829,200 of mortgage and collateral trust bonds and \$300,000 of collateral trust bonds.



By Decision No. 10006, dated January 20, 1922, the Commission authorized applicant to issue and sell for cash at not less than 93½ \$300,000 of ten-year 7 per cent collateral trust bonds due February 1, 1932, and to issue and pledge as security \$400,000 of mortgage and collateral trust 6 per cent bonds due August 1, 1950. The order of the Commission provides that as the collateral trust bonds are paid a proper proportion of the mortgage and collateral trust bonds deposited as collateral should be returned to applicant's treasury and thereafter not disposed of in any manner whatsoever except as authorized by the Railroad Commission. It appears that at present \$288,000 of the collateral trust bonds are outstanding in the hands of the public and \$12,000 are held by the trustee under the collateral trust agreement.

The application shows that Associated Telephone Company will be called upon to make extensive additions and betterments. To facilitate the financing of such additions and betterments applicant believes it advisable to retire the collateral trust bonds now outstanding. It therefore asks permission to use the proceeds from the sale of \$300,000 of the bonds now applied for to finance, in part, the cost of retiring the collateral trust bonds. It asks permission to use the proceeds from the sale of the remaining \$200,000 of bonds and of the stock to finance the cost of additions and betterments. It appears from the testimony herein that of the \$500,000 of bonds to be sold \$400,000 are at present pledged as security under the authority granted by Decision No. 10006. The \$400,000 of bonds are not included in the outstanding bond debt to which reference has been made.

The additions and betterments to be financed with proceeds from the sale of stock and bonds are described in exhibits attached to the application. It appears that the company estimates its capital expenditures to June 1, 1924, at \$485,010.60. Of this amount \$96,197.55 has already been expended and has not been paid or provided for through the issue of other securities. The remaining expenditures, amounting to \$388,813.05, include \$187,120.52 for additional switchboard equipment, \$145,824.73 for additional cable, \$36,068 for new telephone instruments and the remainder for drop wire and miscellaneous lines.

#### ORDER.

Associated Telephone Company having applied to the Railroad Commission for permission to issue and sell stock and bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stock and bonds referred to in this application is reasonably required by applicant and that the

expenditures herein authorized are not in whole, or in part, reasonably chargeable to operating expenses or to income;

*It is hereby ordered*, that Associated Telephone Company be and it is hereby authorized to issue and sell at par for cash \$200,000 of its common capital stock and to issue \$500,000 of its mortgage and collateral trust bonds and to sell such bonds at not less than 93 per cent of their face value, plus accrued interest.

The authority herein granted is subject to further conditions as follows:

1. The proceeds received from the sale of \$300,000 of the bonds herein authorized to be sold shall be used to finance, in part, the cost of retiring the \$300,000 of collateral trust bonds referred to in the foregoing opinion.

2. Applicant may use a sum not exceeding \$3 per share of stock sold to pay selling expenses. The remainder of the proceeds from the sale of the stock, together with the proceeds from the sale of \$200,000 of bonds authorized herein, shall be used to finance, in part, the cost of the additions and betterments described in this application.

3. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$200, and will expire on June 30, 1924. The authority to issue stock will become effective upon the date hereof and will expire on June 30, 1924.

4. Applicant shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized, and of the disposition of the proceeds, as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifteenth day of October, 1923.

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DECISION No. 12715.

IN THE MATTER OF THE APPLICATION OF PACKARD STAGE LINE,  
A CORPORATION, FOR AN ORDER AUTHORIZING ISSUANCE OF  
STOCK.

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Application No. 9275.  
Decided October 16, 1923.

*Nolan, Rohe and Freston*, by *Clifford A. Rohe*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this proceeding, as amended, the Railroad Commission is asked to make an order authorizing K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell to transfer their operative rights and properties to Packard Stage Line, a corporation, and authorizing Packard Stage Line to acquire such properties and to issue \$6,000 of its common capital stock.

A public hearing was held before Examiner Williams in Los Angeles.

The record shows that K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell, as copartners under the firm name and style of Packard Stage Line, have been, since November 15, 1921, engaged in transporting passengers by auto stages between Los Angeles and Bakersfield, via Mojave, Tehachapi and other intermediate points, excepting locally between Los Angeles and Lancaster and between Bakersfield and Caliente. They are operating under the authority granted by the Commission in Decision No. 9635, dated October 26, 1921.

It appears that the copartnership does not own any equipment, operating solely with cars leased from members of the copartnership. It is reported that the partners have concluded that the business can be operated more economically and efficiently by a corporation than by a copartnership, and for that reason have caused the organization of Packard Stage Line, a corporation.

The articles of incorporation of Packard Stage Line show that it was incorporated on or about April 10, 1923, with an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, all shares being common. The corporation asks permission to issue 60 shares of stock of the aggregate par value of \$6,000. The stock will be issued in proportionate amounts to the members of the copartnership in full payment of their operative right and of six 9-passenger Packard stages. These stages are being used at present by the copartnership and are reported to be in good and serviceable condition. The price to be paid, according to the testimony of W. H. Powell, represents the estimated present value of the cars. The properties will be acquired free and clear of all indebtedness.

**ORDER.**

Application having been made to the Railroad Commission by K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell and Packard Stage Line for an order authorizing the transfer of properties and operative rights and the issue of \$6,000 of stock, a public hearing having been held and the Railroad Commission

being of the opinion that the application should be granted as herein provided;

*It is hereby ordered*, that K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell be and they are hereby authorized to transfer and assign the operative rights and properties referred to in the foregoing opinion to Packard Stage Line, free and clear of all indebtedness, and Packard Stage Line be and it is hereby authorized to acquire such rights and properties.

*It is hereby further ordered*, that Packard Stage Line be and it is hereby authorized to issue \$6,000 of its common capital stock in full payment for the rights, the six 9-passenger stages and properties described in this application, such rights, stages and property to be transferred free and clear of all indebtedness.

The authority herein granted is subject to the following conditions:

1. K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell shall cancel immediately all time schedules, tariffs, rates and classifications at present on file with the Railroad Commission and Packard Stage Line shall file immediately new time schedules, rates, tariffs and classifications, or adopt as its own the time schedules, tariffs, rates and classifications heretofore filed with this Commission by K. F. Beyerle, C. A. Sansome, L. J. Austin, R. R. Wilson, T. E. Hutson and W. H. Powell, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission, such cancellations and filings to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. The rights and privileges, the transfer of which is herein authorized, may not again be transferred, assigned, leased, sold, hypothecated or operations thereunder discontinued unless the written consent of the Railroad Commission to such transfer, assignment, lease, sale, hypothecation or discontinuance shall have first been secured.

3. No vehicle may be operated by Packard Stage Line, a corporation, under the authority contained in this decision unless such vehicle is owned by said company or leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The price at which Packard Stage Line is herein authorized to acquire properties shall never be urged before this Commission, or other court or public body having jurisdiction, as a measure of value of said properties for the purpose of fixing rates, or for any purpose other than the transfer herein authorized.

5. The transfer of operative rights hereinabove authorized and the required cancellation and filing of tariffs and schedules shall be made

not later than ninety days from the date of the order in this proceeding, unless the time for accomplishing the authorized transfers, the cancellation and filing of tariffs shall be extended by the further order of this Commission.

6. Within thirty days after the issue and delivery of the stock herein authorized, Packard Stage Line shall file with the Commission a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted to transfer operative rights and properties and to issue stock will become effective upon the date hereof and will continue for a period of ninety days after the date of this order.

Dated at San Francisco, California, this sixteenth day of October, 1923.

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DECISION No. 12716.

CITY OF GLENDALE, A MUNICIPAL CORPORATION,

*vs.*

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY,  
A CORPORATION.

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Case No. 1494.

Decided October 16, 1923.

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**RATES—TELEPHONE TOLL SERVICE—FREE SWITCHING GLENDALE-LOS ANGELES.—**  
City of Glendale in this proceeding sought abrogation of toll charge for service between Glendale and Los Angeles exchanges, and restoration of free switching service. The Commission held that the discontinuance of toll charges would necessitate increasing existing local exchange rates. Since the present rate conforms to the uniform schedule of toll rates now effective throughout the state to reduce the charge would at once involve a similar modification of the general toll rate schedules, which has not been justified by any showing made in this case.

*Hartley Shaw*, for City of Glendale.

*Arthur Wright, James T. Shaw and Pillsbury, Madison and Sutro*, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

**OPINION.**

This is a proceeding in which complaint has been filed with the Railroad Commission by the city of Glendale, a municipal corporation, against the establishment by The Pacific Telephone and Telegraph Company of toll rates for telephone service between its local exchange

in Glendale and the Los Angeles exchange of the Southern California Telephone Company. The matter came on for public hearing in the city of Los Angeles on March 17, 1921, and was thereupon submitted. The subject matter involved in this complaint affects directly the monthly local exchange rates and the local service of both of these exchanges, owned and operated by two different telephone companies, as well as the toll service and rates against which the complaint is directed. The monthly local exchange rates and service of Southern California Telephone Company in the city of Los Angeles were before the Commission in another matter at the time of the hearing in this matter and in view of these facts a decision disposing of the complaint of the city of Glendale has been necessarily deferred. The matter of rates in Los Angeles having been covered by a separate order, this matter is now ready for decision.

The complaint of the city of Glendale is substantially to the effect that prior to a consolidation of two competing telephone systems which were operating at Glendale, which consolidation was brought about through the purchase, authorized by the Railroad Commission, of the property of the San Fernando Valley Home Telephone Company in Glendale by The Pacific Telephone and Telegraph Company, certain free switching was permitted between Glendale and Los Angeles; that thereafter, to wit, during the period of federal control and operation of the telephone and telegraph systems of the United States, said free switching was discontinued and toll switching rates were made effective between the two exchanges. The relief sought is abrogation of the toll charge.

Glendale is a city of approximately 13,500 population, as shown by the last official census, and an estimated present population of approximately 17,000 or 18,000. The local telephone exchange serves approximately 5,000 subscribers at the present date. It is situated about seven miles, airline between post offices, from Los Angeles. Complainant alleges that a large percentage of the city's residents are employed or engaged in business in Los Angeles and travel daily between the two communities, but definite statistical data have not been presented in support of this claim. It is urged, however, that these interests justify the elimination of toll switching charges. Testimony was offered showing the cost of service to Los Angeles for various individual subscribers, purporting to show that the cost resulting from the toll charge is excessive, and it is claimed that a majority of the business people are made to suffer by reason of a toll charge being imposed.

As opposing these claims of complainant, defendant has attempted to show that as to the alleged excessive cost of service, instances in

which the amount paid by subscribers has been or is appreciably high are confined to a very limited number of cases in which the actual use of the service has been or is abnormal and that, as to the normal average use of the service, the restoration of free switching would necessitate an increase in monthly local exchange rates, resulting in a shifting of the cost to a majority of the subscribers out of all proportion to its actual normal average use. In support of these representations of defendant, exhibits were introduced in evidence showing the comparative use of the service by all subscribers during what is stated to be a typical month and showing net operating losses during the two years preceding the hearing on the city's complaint. Testimony was also submitted to the effect that a return to free switching would increase annual operating charges approximately \$58,000 and require additional capital expenditures of approximately \$274,000.

The city of Glendale is so situated with reference to the city of Los Angeles, and the same fact holds true in greater or less degree as to other similarly located communities adjacent to the city of Los Angeles, that its various business, social and other interests are unavoidably more or less associated with those of the latter city. It has its separate business and other institutions, however, in its stores, banks, schools, libraries, hospitals, churches, theaters and doctors, and is not dependent on Los Angeles in these matters. It does not appear, therefore, that there is a community interest existing here justifying the elimination of toll switching rates. On the contrary, the restoration of free switching to and from Los Angeles would divert business from Glendale to Los Angeles and it is no doubt a fact, as claimed by defendant, that the restoration of free switching would necessitate substantially increasing existing local exchange rates. While, according to the testimony of witnesses appearing for complainant, there is a considerable sentiment for the elimination of tolls, it is also protested by a considerable number of the business interests of Glendale.

The rate against which complainant protests is 10 cents, this rate having been established in conformity with the uniform establishment of similar rates for similar service at other points similarly situated. Counsel for complainant urged at the hearing, if the Commission may conclude that the toll rate should not be abolished, that a reduction in the amount of the rate be made. Since the present rate conforms to the uniform schedule of toll rates now effective throughout the state, to accede to such change would at once involve a similar modification of the general toll rate schedules, a modification which has not been justified by any showing which has been made in this case.

The following order is recommended:

**ORDER.**

Complaint having been filed with the Railroad Commission by the city of Glendale, against the Pacific Telephone and Telegraph Company, seeking an order of the Commission abolishing the collection of toll charges for telephone service between the cities of Glendale and Los Angeles, a public hearing having been held, the matter having been submitted and being now ready for decision, and it appearing to the Commission, as set forth in the opinion preceding this order, that the collection by defendant of toll charges for telephone service between said cities is justified and reasonable;

*It is hereby ordered*, that the complaint herein be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of October, 1923.

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DECISION No. 12718.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN MOTION, INTO THE REASONABLENESS OF THE RATES, RULES AND PRACTICES OF SOUTHERN CALIFORNIA EDISON COMPANY.

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Case No. 1759.

Decided October 17, 1923.

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**RATES--ELECTRIC UTILITY--RATE BASE.**—Rates of the Southern California Edison Company are adjusted by the Commission on a basis reflecting declining costs of fuel oil and other elements entering into the production and distribution of electric energy on the following basis: general lighting from 12 to 18 per cent; street lighting 11 per cent; industrial power 10 per cent; agricultural rates, southern California, 10 per cent; agricultural rates, San Joaquin Valley district,  $7\frac{1}{2}$  per cent; railway power rates,  $6\frac{1}{2}$  per cent; power rates for resale,  $7\frac{1}{2}$  per cent.

**OVERDEVELOPMENT.**—No growing system can or should be constructed so that it is just sufficient to serve the existing consumers with no margin of capacity. Consideration should be given, however, in connection with the determination of the reasonable rate of return where temporarily an overdevelopment in excess of normal exists.

**RATE BASE.**—A reduction of rate base claimed by the company of \$111,899,168.55, to \$103,237,631 is made by the Commission. Held, that while the items eliminated, either in whole or in part, represented real value to the stockholders of the company they were not to be used and useful at this time, and were therefore to be excluded from the rate base.



**RATE OF RETURN.**—In view of all conditions existing the Commission held that a return of approximately 7.5 per cent on the 1923 basis (federal income tax being considered as an operating expense) is a reasonable return.

**REDUCTION IN RATES.**—It would appear from the evidence that under present conditions a further reduction of rates may be made resulting in a total revenue reduction, based upon 1923 operations, of approximately \$2,200,000.

*Roy V. Reppy and B. F. Woodard*, for Southern California Edison Company.

*W. J. Carr*, for Cities of Alhambra, Anaheim, Arcadia, Chino, Colton, El Monte, Fillmore, Fullerton, La Verne, Lindsay, Long Beach Los Angeles, Monrovia, Newport Beach, Pasadena, Pomona, Porterville, Riverside, San Buena Ventura, South Pasadena, Santa Monica, Sierra Madre and City Attorneys' Association.

*F. S. Brittain*, for Sidney V. Saunby and C. A. Melcher and California Farm Bureau Federation.

*L. L. Dennett and I. H. Althouse*, for Terra Bella Irrigation District.

*J. J. Deuel*, for Kern County Farm Bureau.

*F. C. Finkle*, for Redlands and Yucaipa Land Company, Yucaipa Water Company No. 1, South Mesa Water Company and Western Heights Water Company.

*E. B. Criddle*, for Southern Sierras Power Company.

*Geo. L. Hoodenpyl and Chas. E. Hewes*, for City of Long Beach.

*Wm. Guthrie*, for California Portland Cement Company.

*C. L. McFarland*, for Riverside Portland Cement Company.

*James E. Barker*, for City of Azusa and San Moreno.

*Geo. W. Trauger and D. A. Eckert*, for Lindsay-Strathmore Irrigation District.

*Geo. A. French*, for the City of Riverside.

*W. G. Van Pelt*, for Globe Grain and Milling Company and Globe Cotton Oil Mills.

*N. D. Bachtell*, for Consumers of Lancaster District.

*W. P. Butcher*, for the City of Santa Barbara.

BY THE COMMISSION.

#### OPINION.

This is a proceeding instituted by the Commission on its own motion for the purpose of making a complete investigation of the rates, rules and practices of the Southern California Edison Company.

This company appeared before the Commission in several rate proceedings during and following the war period, certain of which were in the nature of emergency proceedings, being brought about by the unusual economic conditions then existing.

Application No. 3955, filed in 1918, was a rate proceeding brought by the company asking for the establishment of just and reasonable rates, to cover the increased cost of labor, material and fuel, and a shortage of hydro-electric power. This proceeding was handled as an emergency proceeding and limited to a determination of the increased operating costs. A general investigation was made of the book costs of the physical properties and a comparison made of the rates of return earned in former years, but no definite valuation determined. In Decision No. 6000 (16 C. R. C. 301), dated December 21, 1918, the Commission authorized an increase in rates of approximately 13 per cent in the form of surcharges.

Application No. 5394 was filed early in 1920 by the company asking for further emergency increase in rates because of continued increases in the cost of operation, increase in load, increase in price of fuel and

indications for reduced hydro-electric output, which would further increase the cost of power and increase operating expenses. In this petition Southern California Edison Company also requested that a complete determination of rates be made after the emergency increase had been taken care of. Attention was also directed by the company to the need of maintaining the company's credit while it was carrying on a power development to meet the growing demand for service. This proceeding was limited to consideration of further increase in rates following the general method used in the preceding application, and the question of a definite determination of capital and rates was held over until the emergency proceeding was decided and a more detailed investigation could be made. The decision in the emergency part of the proceeding, No. 7424, dated April 15, 1920 (18 C. R. C. 67), authorized a further increase in rates in the form of a surcharge which had the effect of increasing the rates 27 per cent over the existing rates and about 43 per cent over the 1916 rates.

In September, 1920, the Commission commenced hearings upon the definite determination of rates for this company. The Commission's engineers made a check of the historical reproduction cost of the properties as of June 30, 1920, studies were made of the cost of money and of depreciation allowances and presented at the hearings; also consideration was given to the authorizing of a contingency reserve that would provide for the fluctuation of production of power due to variation in hydro-electric output in wet and dry years and variation in the price of oil. Pending final decision in the matter, Decision No. 8553, dated January 17, 1921 (19 C. R. C. 311), was issued by the Commission reducing the 27 per cent surcharge to 20 per cent, making the rates approximately 35 per cent above the 1916 rates.

Decision No. 8815, dated March 31, 1921 (19 C. R. C. 595), was the final decision in Application No. 5394. In this decision consideration was given to the fixing of rates and the removal of the surcharges on the Edison system, including Mount Whitney Power and Electric Company system which had been purchased in 1920, but excluding the rates within the city of Los Angeles where service was being rendered consumers under an operating agreement with the city, the Edison Company acting as an agent of the city. In this decision the Commission estimated the average reasonable operating investment for the year of 1921 for the electrical properties of the company as \$94,073,656. It found that, in view of the cost of money invested during the war period and the high prices thereafter, the company was entitled to a return for 1921 of 8.3 per cent upon the reasonable historical investment, with allowances for federal income taxes included in operating

expenses. The company was required to adjust its depreciation reserve to \$8,250,000 as of January 1, 1921, and thereafter to set aside \$1,400,000 as a depreciation annuity and also interest at 6 per cent upon the \$8,250,000, plus an annuity on additions and betterments. A contingency reserve of \$550,000 was provided from the excess earnings of the previous year to take care of the fluctuations in costs of the production of power due to variation in hydro-electric output from wet and dry years and variation in price per barrel for fuel oil above or below \$2 per barrel. A complete new schedule of rates was fixed. The general effect of this rate adjustment was to reduce the rates in effect approximately  $4\frac{1}{2}$  per cent, making the average rate about 29 per cent above the prewar level.

Case No. 1710 was a proceeding brought by the Commission on its own motion on January 21, 1922, to determine what reduction should be made in rates as a result of a decrease in the price of fuel oil and the marked increase in lighting revenue and general business of the company. This proceeding was in the nature of an emergency proceeding instituted in behalf of the consumers for immediate relief and was somewhat similar to the emergency proceedings instituted by the utilities during the period of increase in prices. For that reason the proceeding was limited to a consideration of such changes in conditions as had occurred since the last proceeding, and the modification of certain rates which had resulted in a burden on some of the consumers. The fundamental basis of rates as determined in the Commission's Decision No. 8815 was not reconsidered. In its Decision No. 10350, dated April 24, 1922 (21 C. R. C. 597), the Commission found the reasonable rate base for 1922 following the principles set forth in Decision No. 8815, to be \$102,560,118. This included the system within the city of Los Angeles later sold to the city. Based on a continuance of an 8.3 per cent return upon the rate base, it was determined that a total reduction in revenue of \$1,609,520 should be made, based on the business of 1922. This resulted in a further decrease in rates of approximately 10 per cent, which was made effective in the form of discounts and resulted in rates and charges averaging approximately 16 per cent above prewar prices.

During the hearings in Case No. 1710 it developed that there was some doubt among the consumers' representatives as to the reasonableness of the basis of the fixing of the rates as set forth in the Commission's Decision No. 8815. The Commission decided that upon the completion of that proceeding and ordering of certain reduction in rates of a temporary nature, the Commission would institute, on its own motion, an investigation into the fundamental basis of rates on the

Edison Company system. The Commission thereafter instituted the present proceeding, Case No. 1759, with a view of going into the entire matter of electric rates both as to basis and as to spread of rates if necessary.

Hearings in the proceeding were held before former Commissioner Benedict in Los Angeles prior to January 1, 1923, and before Commissioners Brundige, Seavey and Shore thereafter, and occupied a total of sixteen hearing days. The record consists of 1553 pages of reporter's transcript of oral evidence and forty-eight exhibits submitted by the various parties. The matter was submitted on briefs and representatives of the consumers and of the company filed briefs setting forth their conclusions from the evidence submitted.

Many of the cities receiving service from the company joined together in presenting evidence in this proceeding. Their engineers submitted estimates of a reasonable rate base, operating expenses, taxes and depreciation. Similar evidence was presented by the company and the Commission's engineers. The California Farm Bureau Federation, representing the agricultural interests served by the company, also was represented as were several groups and individual consumers.

As hereinbefore stated, this proceeding was instituted for the purpose of allowing the fullest discussion and presentation on fundamental issues that were either limited or entirely eliminated in Case No. 1710. Preliminarily it was agreed that evidence in Case No. 1710 should be considered in this proceeding. It was generally agreed that a complete new inventory and appraisal of the properties need not be made in connection with this proceeding but that the book cost as of June 30, 1920, formerly checked by the Commission in connection with Application No. 5394, Decision No. 8815, plus reasonable operative additions, might be used, the representatives of the consumers reserving the right to attack such items as the inclusion of the San Joaquin and Eastern Railroad, overdevelopment of mountain projects, inclusion of property that should be abandoned, inefficiencies of construction, etc., and the company might submit for consideration such modification as it considered should be made in view of further information available.

This proceeding resolves itself mainly into the consideration of certain relatively large and important items or principles, such as inclusion of the cost of the San Joaquin and Eastern Railroad as part of the electric rate base, reasonableness of net additions and betterments during past few years, overdevelopment, depreciation, rate of return, severance damages, taxes, and estimate of revenue and expense.

Discussion of the various matters at issue in this proceeding will be considered under the following heads:

(A) Rate Base—

1. Company's Claim for 1923.
2. San Joaquin and Eastern Railroad.
3. Overdevelopment.
4. Santa Barbara and Visalia Steam Plant.
5. Lands.
6. Claims for Lag Capital.
7. Water Rights.
8. Organization.
9. Miscellaneous Capital Additions and Betterments.
10. Automobile Capital.
11. Working Capital and Material and Supplies.
12. Consumers' Advances.
13. Reasonable Rate Base, 1923.

(B) Depreciation.

(C) Operating Revenue.

(D) Operating Expense.

(E) Taxes.

(F) Rentals.

(G) Uncollectible Bills.

(H) Summary of Revenue Expense and return.

(I) Severance Damages.

(J) Reasonable Rate of Return.

(K) Modification of Rates.

**A. RATE BASE.**

The Commission in its Decision No. 8815 found the reasonable rate base for the year 1921 as \$94,075,000. This represented an estimate of the average reasonable investment for 1921 in physical properties, including allowance for working cash capital and materials and supplies, a reasonable return on which could properly be charged against the consumers. This amount excluded \$350,000 from the investment in the San Joaquin and Eastern Railroad because of excessive earnings during the early construction period of the Big Creek developments. There was included \$2,700,000 for working capital and supplies, and also the Los Angeles distributing system which was then being operated for the city but owned by the company. No separate allowance was made in the rate base for such intangibles as organization cost or water rights. In Decision No. 10350, in Case No. 1710, the former rate base was brought up to date for 1922, adding additions and betterments, and was estimated at \$102,560,000. During 1922 the system in

Los Angeles, representing a book cost of approximately \$10,000,000, was sold to the city.

### 1. Company's claim for 1923.

The company in this proceeding claims a rate base of \$111,899,168.55 for the year 1923. This is based on the book cost, exclusive of lands, determined in 1920, with additions and betterments added to capital since that time, and additions to capital that the company estimates will become operative in 1923. There are also included estimates for organization expense and water rights and present value of lands. The following tabulation shows the detail of the 1923 claimed rate base:

TABLE No. 1.

Southern California Edison Company Claimed Rate Base, 1923—Revised After Closing Books, December 31, 1922.

#### Operative property to December 31, 1922.

##### Capital accounts:

Book balance—Capital accounts, December 31, 1921, exclusive of land and rights of way-----	\$87,646,929 16
Additions, year 1922, exclusive of land and rights of way (includes deduction for Los Angeles city sale, transfer of a portion of Mount Whitney capital to operative accounts, and power development entries for Big Creek No. 2, No. 8, K. R. No. 3, Shaver, Eagle Rock, and Vestal)-----	16,937,933 48
Total book capital, December 31, 1922, exclusive of land and rights of way----	\$83,584,862 64
Deductions from capital accounts:	
Oxnard steam plant (exclusive of land)-----	*85,839 23
Miscellaneous accounts:	
Mount Whitney transfer as of December 31, 1922-----	4,070,039 71
Automobiles as of December 31, 1922-----	635,878 66
San Joaquin and Eastern Railroad capital as of December 31, 1922-----	1,524,945 81
Land and rights of way:	
Right of way, December 31, 1922-----	\$817,922 81
Land, present value as of December 31, 1922-----	1,654,597 56
	2,472,520 37
Capital, operative, but not yet in capital accounts:	
Shaver reservoir-----	300,036 19
Big Creek No. 8 switches-----	105,054 10
Miscellaneous system betterments-----	1,950,000 00
Total operative capital as of December 31, 1922-----	\$94,557,201 55
Operative property additions, year 1923:	
Big Creek No. 1—third unit-----	\$1,020,000 00 6 months 510,000 00
Big Creek No. 3—three units-----	15,082,000 00 4 months 5,027,260 00
Laguna Bell line and stations-----	4,413,054 00 5 months 1,838,000 00
Changing Big Creek line and stations-----	2,878,679 00 4 months 959,559 00
Miscellaneous system betterments-----	8,000,000 00 6 months 4,000,000 00
Miscellaneous additions:	
Water rights-----	1,437,148 00
Organization expense-----	480,000 00
Working capital:	
Working cash capital-----	1,115,000 00
Materials and supplies-----	1,975,000 00
Total rate base, 1923-----	\$111,899,168 55

\*Indicates red figures.

### 2. San Joaquin and Eastern Railroad.

The company has included the total book investment in the San Joaquin and Eastern Railroad in the above rate base. It is contended by representatives of certain consumers that the investment in this

railroad should be entirely excluded from the rate base for the reason that it is incorporated and operated as a separate utility; that its rates are subject to orders of bodies other than the California Railroad Commission; that it is engaged in handling express matter, excursion trains and passengers, which is an entirely different business from serving electrical energy. Representatives of the cities while also contending for the elimination of the railroad investment from the rate base considered it rather unimportant from a practical standpoint now that the road was self-supporting, but recommended that \$356,197, previously eliminated by this Commission in Decision No. 8815, should be deducted from the rate base, this amount being admitted by the company in Case No. 1710 as being properly deductible.

As set forth in Decision No. 8815, the railroad was constructed in connection with the installation of the Big Creek power plants. The bonds were guaranteed by the power company and all of the stock owned by it. It was incorporated separately, and has been operated as a common carrier under the jurisdiction of the Interstate Commerce Commission. The evidence shows that it was necessary for the construction and operation of those plants and that it is required for the construction and operation of the new plants under way, and for the plants proposed for the future, and can not economically be replaced by any other method of transportation. The railroad, therefore, appears to be rendering a definite and necessary service in the construction and operation of hydro-electric plants, and for that reason the total investment can not fairly be deducted from the rate base. The reasonableness of including the railroad investment in the rate base can be shown by considering the conditions if the road had only been useful during the construction period, and thereafter removed, the expenditure would have been charged to construction of hydro-electric plants and the cost would have been prorated among the plants installed, and would have become in that way a part of the rate base. The objection that the railroad is used in other business than electric does not prohibit it from being included in the electric rate base as these activities are incidental to the electric requirements and the revenues from these sources help pay expenses that would otherwise fall upon the electric consumer, were it not operated as a common carrier. Necessarily credit to the electric business should be made for any earning received from the railroad.

The Commission, in its Decision No. 8815, deducted \$356,197.05 from the railroad investment to be included as a part of the rate base because of the earnings in excess of operating expense and bond interest which resulted from the large construction work occurring during the first few years of development. These excess profits represent costs now

included in hydro-electric capital, which would not have been included were the road used as a private road in which case interest and operating expenses only would have been charged. The records show that in 1921 the road operated at a deficit of \$59,199.50, and in 1922 the road earned \$68,196.25. In the determination of rates in 1921 one-third of the estimated deficit of \$105,000 was included in the operating expenses of the Edison Company, as well as a return upon the reduced investment. In 1922 it was estimated in the rate proceeding that no deficit would occur, and full return was allowed upon the net investment of the railroad. In view of this latter fact, it appears that any earnings made during these years in excess of those estimated should be used to reduce the capital to be considered as a part of the electric rate base. The company estimates its 1923 earnings to be about \$76,000 on account of the large construction work now under way. The company's budget shows that the development program provides for the following yearly expenditures for hydro-electric construction: 1922, \$10,951,000; 1923, \$11,851,000; 1924, \$9,452,000; 1925, \$11,907,000.

These proposed expenditures would indicate that the total construction contemplated may be expected to be of such a magnitude as to result in as much if not more business for the railway than has heretofore existed even in 1922. In Case No. 1710 the Edison Company's engineers estimated that there would be a deficit of \$75,000 for 1922. This is as against a profit of \$68,196 actually occurring. During 1922 the price of fuel oil was materially reduced. In view of the above facts it appears reasonable to assume that the operating profit for the year 1923 should be estimated nearer to \$150,000 than \$76,000. Any earnings in excess of the average allowed on the electric property in determining the rates should be used to reduce the capital in the railroad included in the electric rate base as these represent transfers to construction. The sum of \$80,000 will be included as revenue to reduce the earnings required from electric rates and the balance will be used to reduce capital. In this proceeding, the book investment of the tangible property of the San Joaquin and Eastern Railroad will be reduced \$520,000. The reduced amount will be considered a part of the operative investment on which rate of return will be computed. The amount of \$1,004,946 will be included in the 1923 rate base for San Joaquin and Eastern Railroad.

### 3. Overdevelopment.

It was contended by representatives of the Farm Bureau and the cities that the Commission should deduct from the rate base a portion of the company's investment in its hydro development because of the construction of several units for a larger capacity than the present



needs. This contention applied to Big Creek No. 8 and No. 3 tunnels, Shaver Lake reservoir and tunnel, and Laguna Bell right of way, and certain others. In the briefs for the cities it is urged that deductions in the rate base for 1923 be made of \$535,300 for Big Creek No. 8 tunnel, \$279,300 for Big Creek No. 3, and \$330,000 for Laguna Bell right of way.

The testimony shows that tunnel No. 8 was constructed to convey 2000 second-feet, but the present plant capacity requires only 500 second-feet, and that tunnel No. 3 was constructed to convey 3000 second-feet but for 1923 the plant will require only 1500 second-feet. Mr. R. M. Vaughan, valuation engineer of the Commission, made a comparative estimate of the cost of constructing these tunnels for the present needs as compared to the proposed ultimate use and found that the cost of tunnel No. 8 for a one-quarter capacity would be about one-half the actual cost and the cost of tunnel No. 3 for a one-half capacity tunnel was about 90 per cent of the actual cost. The difference in the cost of the two tunnels between the two capacities was about \$1,373,300. As power house No. 3 will not be in operation for more than three months, the amount in 1923 rate base is approximately \$740,000. The testimony also shows that the full capacity of these tunnels will be required with the new development that is now under way, though the same will not be completed for several years, and that it would not be economical to enlarge the tunnel during operation, as it would require closing down the plants and wasting the water in the future. Tunnels No. 3 and No. 8 are constructed as units of a large development that will only become fully utilized when the entire project is completed. It was necessary to decide in the beginning if it would be more economical to construct the tunnels for the proposed use or only to provide capacity for the present requirement. The testimony indicated that these conditions have been given consideration and that the construction program, as carried out, was executed after careful study and should result in a saving to both the company and to the consumers. The question of overdevelopment is one of reasonableness. No growing system can or should be constructed so that it is just sufficient to serve the existing consumers with no margin of capacity. Transmission and distribution systems are subject to increased loading and have, in a rightly operated system, some excess capacity for growth. Similarly canals for ultimate capacity should be constructed, if economical, though not necessary at the present time. Unless the actual construction cost is excessive, due to lack of foresight or unnecessary expenditure, or the overdevelopment is relatively large considering the property as a whole, deduction does not appear justified.

Consideration should be given, however, in connection with the determination of the reasonable rate of return, where temporarily an overdevelopment in excess of normal exists.

At the time this proceeding was submitted it was estimated that the third unit in Big Creek No. 1 would be in operation for six months and that Big Creek No. 3 would be in operation for an average of four months in 1923, and the operations estimated accordingly. The records now indicate that the average period of operation of these plants for 1923 will be five and one-half and three months, respectively. Deductions from the estimated rate base amounting to \$1,290,000 will be made to cover these items.

The cost of the Shaver Lake tunnel was included in the rate base in Decision No. 10350, for the reason that it is used practically to capacity during the time water is available in Shaver Lake drainage area. The use of water during the early part of the year allows increased storage to be accumulated in Huntington Lake, thereby increasing the hydro output of the system. The tunnel will be enlarged when the Shaver Lake storage is increased. This enlargement may be carried out during the low water period in Shaver Lake, with only slight interference with production of power. It therefore appears reasonable to include the cost of the Shaver Lake tunnel in the rate base.

The company claims \$660,000 in the rate base for the Laguna Bell right of way on the assumption that it will be operative for five months in 1923. This right of way is approximately 26.6 miles long and has an average width of about 250 feet and is estimated to cost \$1,583,731. The testimony shows that it is proposed to install three transmission lines, two of which are under construction and are expected to be completed and in operation during the latter part of August, 1923. It is estimated that a third transmission line will be constructed in 1926 in order to transmit the additional power that will be available at that time from the development now under construction. The right of way can be considered as only part operative even for part of the year, as only two lines out of three will be in use. The company's claim of the amount to be included as operative will be reduced by \$330,000.

#### **4. Santa Barbara and Visalia steam plants.**

The company has included Santa Barbara and Visalia steam plants in its estimated 1923 rate base at Mr. Kelly's valuation of \$406,249.24 for the former and \$328,886 for the latter.

Mr. Vaughan, of the Commission, made an investigation of these plants to determine their condition and usefulness, and his report and testimony show that the Santa Barbara plant is not maintained except as an emergency standby, and that it is only capable of carrying the

local railroad and street lighting load, and would require several hours to place in operation. The plant was operated seven days in the last year during transmission line interruption. The testimony also shows that the company is building an additional transmission line to Santa Barbara which is expected to be completed this year. In view of the limitations of the plant as to use and service, the bringing in of the Big Creek No. 3 plant and the third unit in Big Creek No. 1, and the fact that a new transmission line will be available for emergencies, it appears proper that the plant should be abandoned. One-half of the sum of \$406,249.24 will be deducted on the basis of abandonment for one-half of the year.

The Visalia plant was reported by Mr. Vaughan as being in better condition than the Santa Barbara plant, and appeared to be in an operative condition. This plant was excluded from the rate base by the Commission in its Decision No. 10350, because of a power contract with the San Joaquin Light and Power Corporation. The testimony shows that the plant has not been operated since 1921. It appears that the plant has served its purpose as a standby and that it should not have been included in the operative property for the year 1923. It will therefore be excluded from the present rate base.

##### 5. Lands.

The company claims \$2,472,520.37 for lands and rights of way, of which \$1,654,597.56 is for present value of fee lands including cost of certain water rights and \$817,922.81 for cost of rights of way. The present value of the fee land was obtained by adding \$579,126.03 to the original cost as appreciation. The *appreciation* was determined by obtaining the opinions of the district managers or the opinions of other informed persons in the different communities as to present value of certain parcels of land. By this method appreciation was developed on land, the original cost of which amounted to about \$245,000, out of a total of approximately \$650,000, leaving \$405,000, exclusive of water rights, on which no appreciation was found. No evidence was presented as to recent sales nor were witnesses called to substantiate the details of these claims.

Mr. E. P. McAuliffe, engineer of the Commission, specializing on land appraisal, prepared an estimate of cost of the lands from an examination of the records of the company and submitted a criticism of the company's claim, as he had not sufficient time to make a complete investigation which would include a field inspection. Mr. McAuliffe, in his report and testimony, set out errors in the company's figures for historical cost. These errors were due, in part, to the inclusion by the company of items for water rights and nonoperative property charge-

able to other accounts amounting to \$425,837.75. Errors in computing appreciation resulted in a reduction of \$121,451.19 for that item, making a total reduction of \$547,288.94 from the company's estimate of present value.

Courts have held that land appreciation is a proper item to be included in the rate base. This Commission has so held whenever a sufficient showing has been made. In this proceeding no showing was made which we believe is conclusive of the present value of lands and in view of this and of the fact that in Decision No. 8815 the basis of cost was used, the claim of appreciation will be disallowed. For the purposes of this proceeding, the sum of \$1,840,720.41 will be included in the rate base for lands and rights of way. This also includes costs of water rights included heretofore.

#### 6. Claims for lag capital.

Southern California Edison Company has included in its estimated rate base for 1923 the sum of \$1,950,000 which it claims represents capital actually operative but not carried on the books as fixed capital in service. This allowance relates to miscellaneous construction expenditures including distribution, transmission and a limited amount of production capital. The larger construction jobs, such as the Big Creek development, Laguna Bell transmission line and the raising of the voltage of the Big Creek lines are considered separately and are not included in the determination of this amount. It is contended by the Edison Company that, on the average, approximately three months elapse from the time the miscellaneous additions and betterments are completed and put into operation until they are actually transferred from construction work in progress to fixed capital in service. On the basis of approximately \$8,000,000 miscellaneous additions for the year 1923, it is estimated that this operative capital, not shown on the books as such, would be approximately \$1,950,000.

In the case of the larger developments, such as the Big Creek power plant, estimated to be put in operation in August, 1923, the capital is estimated as operative as of the date the plant becomes operative. In these cases it appears that even a longer period elapses between the actual operation of the plant and the transfer from construction work in progress to additions and betterments is made than in the case of miscellaneous additions. There appears to be no question that in the larger development, the date of placing in operation should be considered rather than the date when the accounting department of the company has finally made the transfer on the books. It would appear that the same reasoning would justify the inclusion of a reasonable

amount for miscellaneous additions not actually accounted for on the books. We are not convinced, however, that the claim of the company is reasonable as to the total amount.

The additions to capital considered under this heading cover mainly extensions of service, enlargement of distribution, transmission or substation equipment, and miscellaneous additions to production capital. Interest during construction at the rate of one per cent (1%) is added to all such additions on the general basis of approximately four months construction period. It would appear that a large amount of extensions and construction changes are completed in much less than four months from the date construction work commences and in adding one per cent (1%) interest during construction to these additions and betterments part at least of the lag period has been accounted for. We are further of the opinion that the average lag period of three months is more than a reasonable period and that if this does exist the company's engineers and accountants are not coordinating their work in proper manner.

We conclude in view of the above, that a reasonable allowance for property operative but not set forth in book additions and betterments for the year 1923 will be \$700,000, a reduction of \$1,250,000 below the company's claim.

#### 7. Water rights.

The company submitted a claim for water rights totaling \$1,437,148. Mr. Kelly, who submitted the estimate, testified that he had arrived at this amount from a computation based upon the Commission's Decision No. 11457 (22 C. R. C. 744) in the Pacific Gas and Electric Company's rate proceeding. Mr. Kelly determined the allowance per installed horsepower of the Pacific Gas and Electric system by using the total value of water rights found in that decision and dividing the same by the total installed horsepower as of the date of the decision. He then applied the unit cost per horsepower to the total installed horsepower of the Edison system on the assumption that the Edison water rights were as valuable per horsepower as the Pacific Gas and Electric system water rights. It appears that no attempt was made to determine the actual cost of the water rights and in many cases it could not be obtained because the land and property purchased by the company included these rights with no segregation of cost. It also appeared that the claims for water rights, in certain cases at least, were duplicated in claims for land, the cost of the land actually including the cost of water rights. This was admitted in the case of purchases of lands and water rights on the Kern River from Miller & Lux for approximately \$364,000 which amount was carried under the item of lands.

It also appears that lands and water rights were acquired through the purchase of the Redlands Light and Power Company and that no segregation of the values was made. It appears, therefore, that to a considerable extent the company's claims for water rights are already included in other items of property and the testimony would indicate the possibility of all water rights being included elsewhere. We must conclude that there is no showing made that would warrant any claim in the rate base for water rights in excess of that included in the item of lands. The claim as made is therefore disallowed.

#### **8. Organization.**

The company's claim for this item is \$480,000. The testimony shows that this was obtained by taking from the Commission's Decision No. 11457 (22 C. R. C. 744), in the Pacific Gas and Electric Company proceeding, the amount of the allowance for organization expense as a percentage of the operative capital and applying that percentage to the Edison capital. No conclusive evidence was introduced relative to the actual cost of organization, and it is apparent that organization costs are reflected to a considerable extent in other items of capital. No additional allowance will be made.

#### **9. Miscellaneous capital additions and betterments.**

The company estimates that it will expend in miscellaneous additions and betterments \$8,000,000 during the year 1923. This will make an average for miscellaneous additions and betterments for the year of \$4,000,000.

A similar estimate of \$8,000,000 was submitted in Case No. 1710 as additions and betterments for the year 1922 as contrasted with an actual expenditure of somewhat less than \$6,000,000. Were the estimates of business growth submitted by the company correct, the sum of \$8,000,000 would be too great. The increased sales which it appears may be expected in 1923 are much greater than in 1922. In view of the estimated increase of distribution sales totaling approximately 25 per cent more than 1922 an estimate of miscellaneous additions and betterments for 1923 of \$7,500,000 appears reasonable. One-half of this amount or \$3,750,000 should be included in the 1923 rate base.

#### **10. Automobile capital.**

The company has included \$635,578 as the automobile capital as of December 31, 1922. This is an increase from \$529,768 as of June 30, 1922, and \$352,547 as of December 31, 1921. The company's automobile capital has grown at a more rapid rate than its business or its capital. No such increase in business having occurred, it must necessarily follow

that the increase is to a considerable extent due to greater construction on the company's system rather than operation. The figure of \$529,768 represented the appraised value of the automobiles as of June 30, 1922. To this has been added net additions to the extent of automobiles purchased, less machines sold. Redetermination of depreciated value is made once each year and the value adjusted.

The appraisal of automobiles in June, 1922, resulted in a reduction in value of \$56,889. In December 31, 1921, when the value was only \$352,000, the Edison Company was operating a system within the city of Los Angeles. Since that date this system has been sold and yet the company shows a continually increasing automobile capital. The proportional capital in automobiles used in construction should not be charged to operation. An allowance of \$350,000 will be included in the 1923 rate base for capital in automobiles used in operation.

#### 11. Working capital and material and supplies.

The company includes claim of \$1,115,000 working cash capital. The Commission has generally allowed two months operating expenses for working capital exclusive of taxes and depreciation and in case of a company purchasing large amounts of power only one month's cost of purchased power. In this Commission's Decision No. 11457, in which rates for Pacific Gas and Electric Company were fixed, deduction was made for allowance of working cash capital on account of the accruing of taxes prior to payment. Moneys accrued for taxes are available as working capital to the extent of approximately one-fourth of the annual state tax. Two months operating expenses, less one-quarter of taxes, leaves a net working capital of \$550,000 which will be allowed in this case.

The company's claim of \$1,975,000 for materials and supplies was based largely upon this Commission's previous Decision No. 8815, increased in amount in proportion to increased capital. Testimony shows that the company carried as of November 30, 1922, material and supplies, including fuel oil, of \$3,201,283. This included material and supplies for capital additions and betterments as well as operations. The allowance should represent material and supplies, exclusive of fuel oil carried for the normal operation and maintenance, together with that for average replacements and should not include material and supplies for construction work. In view of the greater proportion of hydro-electric capital and reduced proportion of distribution capital resulting from the sale of the Los Angeles system, an allowance of \$1,500,000 will be made for material and supplies chargeable to operations.



**12. Consumers' advances.**

Under the rules and regulations governing extensions of service, this company has received from applicants for service considerable sums of money where the extensions have not been justified from the revenue to be received. The annual report for 1922 shows consumers' advances for construction of \$608,350.82. The advances are required because of the unprofitableness of the extension and the consumer receives no interest on the money advanced. In Decision No. 8815 consideration was given to these advances in the determination of a reasonable rate of return. We believe in this instance that it is advisable that deduction be made in the rate base rather than in estimating rate of return for advances by consumers. If the Commission were to allow a fair return upon this money, the action would defeat the justification for the advance and the consumers should have their money returned. A deduction of \$625,000 in the estimated rate base will be made to cover consumers' advances for the average period of 1923.

**13. Reasonable rate base.**

The rate base for 1923 submitted by Southern California Edison Company in its Exhibit "W" as set forth in Table No. 1 herein, should, it appears, be reduced by approximately \$8,600,000 to cover reductions above found reasonable.

The following Table No. 2 sets forth the deductions which we find reasonable, to be made from the estimated rate base submitted by the Southern California Edison Company, together with an estimate of a reasonable rate base for the year 1923, as determined from the evidence in this proceeding.

**TABLE No. 2.****Estimated Rate Base, 1923—Southern California Edison Company.**

Company's claim—rate base, 1923-----	\$111,899,168
<b>Deductions—</b>	
San Joaquin and Eastern Railroad-----	\$520,000
Visalia steam plant-----	328,886
Santa Barbara steam plant-----	203,125
Lag capital-----	1,250,000
Delay in completion of Big Creek No. 3 and third unit	
Big Creek No. 1-----	1,290,000
Miscellaneous additions and betterments-----	250,000
Automobiles-----	285,578
Lands-----	631,800
Laguna Bell right of way-----	330,000
Water rights-----	1,437,148
Organization-----	480,000
Material and supplies-----	475,000
Working cash capital-----	565,000
Consumers' advances-----	625,000
<b>Total reductions-----</b>	<b>\$8,661,537</b>
<b>Reasonable rate base-----</b>	<b>\$103,237,631</b>



**B. DEPRECIATION.**

Approximately one-half of the testimony offered in this proceeding was relative to the matter of depreciation allowance and the basis which should be followed in determining this item. Witnesses were called by the company, the cities, certain consumers, and testimony was introduced by members of the Commission's engineering staff.

The Commission, in Decision No. 8815, allowed a depreciation annuity for the year 1921 of \$1,400,000 which was based mainly upon Mr. A. R. Kelly's estimate in that proceeding in which he used somewhat shorter lives than had theretofore been used by the Commission. The Commission said, in allowing the annuity therein, as follows:

A study, however, leads us to the conclusion that it is fair to allow the annuity estimated on the condition that applicant will fully account to its depreciation reserve not only for the annuity estimated but for interest on the reserve as well and that it calculate interest not on the amount now carried in the reserve but on the amount that would be in the reserve had such interest been properly accounted for from the establishment of the reserve.

The determination of the depreciation allowance in rate proceedings has been a much disputed question, there appearing to be many different views on both the theory or basis, and also upon the estimated lives of different classes of property.

Depreciation at best is an estimate. Sufficient history has not been made in the electrical industry to determine the definite useful life of the various parts of the property, especially in case of long-lived equipment such as hydro-electric plants, etc. A reasonable allowance should therefore be made for depreciation based upon the best information available and the company required to so account for the depreciation allowance that the consumer may be protected in case the allowance turns out to be too much and on the contrary the annuity may be increased in the future should the present allowance be found to be inadequate.

Referring to the question of specific allowance for depreciation in the determination of rates in this proceeding, it appears that estimates submitted by Mr. Paul Thelen, assistant engineer of the Commission, and Mr. A. R. Kelly, valuation engineer of the company, practically agree and are comparable with allowance heretofore made. Mr. Kelly's estimate of depreciation for the entire properties based upon the company's estimate of rate base for 1923 is \$1,483,744.20. Mr. Thelen's estimate was based upon capital as of a previous period. When reduction is made from Mr. Thelen's estimate for an apparent error in applying too short a life to distribution overhead system, Mr. Thelen's total annuity is in practical agreement with that submitted by Mr. Kelly. The estimate submitted by Mr. G. J. Eberle, including his allowance for a supersession reserve and including the increases which

he reported after inspecting part of the property, is approximately 20 per cent less than that estimated by Mr. Kelly and Mr. Thelen. We are not convinced from the evidence that this reduction is justified. It appears that a reasonable allowance for depreciation for the year 1923, applicable to the rate base herein found reasonable, is \$1,430,000.

Southern California Edison Company should divide its depreciation reserve for accounting purposes into four main subdivisions, namely, hydro-electric production, steam production, transmission, and distribution and general, and should account to these subdivisions for the additions thereto and deductions therefrom in order that in the future a correct check can be had upon the correctness of the allowance herein made.

### C. OPERATING REVENUE.

The determination of the estimated revenue for the year 1923, on which to measure the reasonableness of the present rates, is particularly difficult on account of the marked increase in the business which the company is experiencing at the present time. In this case records of actual sales for the twelve months ending July, 1923, show total sales in excess of any estimates submitted for the year 1923. Three estimates of the probable sales in kilowatt hours for the year 1923 were submitted, one by Mr. S. K. Decker, engineer for the cities, one by Mr. H. A. Barre, of the Southern California Edison Company, and one by Mr. W. J. Dodge, for the Commission. Table No. 3 sets forth the actual sales for 1921 and 1922, together with the estimate of sales submitted by the three engineers.

The evidence indicates a very rapid growth in the sales of this company. A growth of 25 per cent in lighting sales occurred in 1922 over 1921 and a considerable growth in all classes of sales except agricultural power where the effect of greater seasonal precipitation in 1922 resulted in a reduction in sales. There appears no tendency in 1923 for a slowing up of the growth of businesses, but, if anything, a tendency to increase. Southern California Edison Company witnesses advise that a special campaign has been started to stimulate a greater growth. Allowance for the investment and expense of this further growth is not considered herein as the growth is too problematical.

**TABLE No. 3.**  
**Actual and Estimated Sales—Southern California Edison Company.**

	Actual sales		Estimated sales for 1923		
	1921 M. k.w.h.	1922 M. k.w.h.	Decker M. k.w.h.	Barre M. k.w.h.	Dodge M. k.w.h.
Light .....	54,567	72,035	90,045	83,700	86,040
Power:					
Municipal .....	17,341	16,372	17,200	16,000	18,000
Commercial .....	342,531	364,328	426,000	426,000	439,000
Combination rate .....	5,719	8,113	10,100	10,000	12,000
Railway .....	271,422	283,412	295,000	290,000	303,000
Other electrical corporations .....	148,161	157,325	185,264	141,000	146,400
Used by company .....	340	289		500	300
Total power .....	785,514	829,839	933,564	883,500	919,600
Total light and power .....	840,081	901,873	1,023,609	967,200	1,005,640

Since the submission of this case the Commission has received the company's condensed monthly statement of July, 1923, which indicated total sales for the twelve months ending July 31, 1923, of 1,047,906,041 kilowatt hours, an amount in excess of any of the estimates presented. Part of the unprecedented increase is due to a year of less than normal rainfall with the resultant increase in use of power by agriculturists and municipalities and to a marked increase in sales to railroads and other electric utilities not contemplated, the sales to railroads totaling 304,610,000 kilowatt hours for the twelve months. Lighting sales are increasing such that excluding the results of the special campaign the sales should exceed the maximum estimate presented. From a careful study of the estimates and the actual results so far experienced we find the following to be a reasonable estimate of the sales and revenue under the existing rates for the year 1923, assuming agricultural and municipal sales to be on a basis of an average rainfall year.

**TABLE No. 4.**  
**Southern California Edison Company—Estimated Sales and Revenue, 1923 Basis.**  
 (Normal rainfall year.)

	Sales in k.w.h.	Average rate per k.w.h. present schedule	Revenue
Light .....	92,000,000	7.2	\$6,624,000
Power:			
Municipal .....	18,500,000	1.52	281,200
Industrial .....	280,000,000	1.44	3,744,000
Agricultural .....	185,000,000	1.70	3,145,000
Combination .....	11,000,000	2.60	286,000
Railway .....	310,000,000	.83	2,578,000
Resale .....	190,000,000	.94	1,786,000
Company use .....	500,000		
Total power .....	975,000,000		\$11,815,200
Total sales .....	1,067,000,000		\$18,439,200
Miscellaneous and jobbing revenue .....			38,000
San Joaquin and Eastern net to operation .....			80,000
			\$18,557,200

#### D. OPERATING EXPENSES.

Estimates of operating expenses were submitted by Messrs. Barre and Trott of the Southern California Edison Company, Mr. Decker for

the cities, and Mr. Dodge for the Commission. In addition, a great mass of data relative to past operating expenses and analysis of same was presented by the company at the request of various parties and by the Commission through its accountant, Mr. Whittaker.

Table No. 5 sets forth a comparison of the estimates of operating expenses for the year 1923, as presented by the three engineers and actual expenses reported for 1921 and 1922. Certain of the estimates of expense presented by the company were tentatively accepted by Mr. Decker. This applies to production labor and materials, purchased power, transmission expense, uncollectible bills and rentals. The estimate submitted by Mr. Barre assumed fuel oil at \$1.50 per barrel, while the estimates of Mr. Decker and Mr. Dodge were based upon the price of \$1 per barrel. The determination of the contingency reserve and also the present rates were based on a price of \$1.50 per barrel for oil.

#### 1. Production expense.

The three estimates of production expense, especially as to fuel costs, were based upon different estimates of the total power necessary to be produced to supply the varying estimated loads. The different engineers assumed different efficiency of transmission and distribution of power by the company. Mr. Barre's estimate was based upon an efficiency of 75.66 per cent and Mr. Dodge's at 76.04 per cent. Mr. Decker based his estimate upon the efficiency existing in 1921 of 77.67 per cent.

TABLE No. 5.

Southern California Edison Company—Electric Operating Expenses for Years 1921 and 1922, with Estimates for 1923.

Production:	1921	1922	Estimates for 1923		
			Barre & Trott	Decker	Dodge
Labor and supplies.....	\$1,232,031 49	\$1,057,648 05	\$1,080,000 00	†\$1,060,000 00	\$1,060,000 00
Fuel .....	1,558,489 26	489,745 12	560,000 00	625,000 00	528,800 00
Purchased power .....	299,892 70	484,964 80	380,000 00	360,000 00	355,300 00
	\$3,090,413 45	\$2,032,357 77			
Fuel oil reserve adjustment..	119,000 00	*119,000 00			
Contingent reserve adjustment .....	*254,788 58	406,000 00			
	\$2,954,629 87	\$2,319,357 77	\$1,980,000 00	\$2,045,000 00	\$1,943,600 00
Less transfer to other departments .....	123,659 04	242,179 00	250,000 00	1250,000 00	250,000 00
Total production .....	\$2,830,970 83	\$2,077,178 77	\$1,730,000 00	\$1,765,000 00	\$1,693,600 00
Transmission .....	288,867 06	302,667 03	390,000 00	†390,000 00	344,000 00
Distribution .....	1,000,078 01	1,251,301 28	1,400,000 00	1,250,000 00	1,463,000 00
Commercial .....	729,440 05	816,308 38	900,000 00	800,000 00	2
General and miscellaneous.....	606,599 00	629,195 24	600,000 00	500,000 00	2
Rentals .....	48,067 27	83,453 24	85,000 00	†85,000 00	2
Uncollectible accounts .....	27,060 00	19,940 00	20,000 00	†20,000 00	2
Taxes .....	1,505,004 50	1,725,489 30	1,740,000 00	1,291,000 00	2
Total operating expenses, exclusive of depreciation.	\$6,936,170 81	\$6,905,533 31	\$6,865,000 00	\$6,131,000 00	

\*Deduction.

†These figures were not investigated and company's figures were used.

2No estimate submitted.

An efficiency approximating that in 1922 of 76.7 per cent would appear reasonable and we conclude that the total production of 1,390,000,000 kilowatt hours may reasonably be required for the distribution of 1,067,000,000 kilowatt hours. Approximately 30,000,000 kilowatt hours will be required by the company in its construction operations on the Big Creek development during the year. This added to the above makes a total requirement of production of 1,420,000,000 kilowatt hours, as compared with the total production of 1922 of 1,198,928,000 kilowatt hours. The estimated average water year production from hydro-electric power plants to be in operation in 1923, as presented at the hearing, is 1,207,190,000 kilowatt hours. This amount must be reduced by 43,800,000 kilowatt hours on account of the delay in Big Creek No. 3 plant, which leaves a net to be obtained from purchased power and steam production of 256,610,000 kilowatt hours. The purchased power required under contract existing is estimated at 32,000,000 kilowatt hours. It is probable that additional power will be purchased during the year mainly from the San Joaquin Light and Power Corporation under an extension of the existing contract; however, the price to be paid should be comparable with the operating cost of power at the existing cost of gas and fuel oil used and a reasonable estimate can be obtained without determining the addition of purchased power. It therefore appears that under normal or average year conditions the company must produce by steam or purchase an additional amount of 224,610,000 kilowatt hours and that approximately 1,060,000 barrels of oil or its equivalent of gas will be required to produce this output. The present price paid for oil by the Southern California Edison Company is approximately 85 cents per barrel. How long this condition will continue it is difficult to determine owing to the unsettled conditions existing in the oil market at the present time. In view of the fact that a contingency reserve of approximately \$700,000 existed on January 1, 1923, which should be further increased by the savings in oil price in 1923, we believe that the cost of oil should be based on the price of \$0.85 per barrel, plus such freight as is required for the delivery of oil at Redondo, although this price might not continue any great period. The total estimated fuel oil charge to be included in estimating rates is \$940,000.

There appears to be general agreement between the three engineers relative to the estimated production expense exclusive of fuel oil. The estimate of this item for the year 1923 is \$1,060,000 compared with the actual for 1922 of \$1,057,000.

The estimate of purchased power has been limited to the amount which the company is required to purchase under existing contracts and the cost of this for the year 1923 is estimated at \$360,000.

**2. Transmission expense.**

Mr. Decker accepted the estimate of Mr. Barre, of the company, for transmission expense of \$390,000, while Mr. Dodge's estimate totaled \$344,000 compared with the actual for 1922 of \$302,667. Considerable additional transmission system will be put in operation during the present year, notably Laguna Bell line and substation, and additional substation and transmission facilities in connection with the raising of voltage on the Big Creek lines. From an analysis, we can not see the justification for as great an increase over the years 1921 and 1922 as estimated by Mr. Barre. It would appear that an allowance of \$370,000 for this item is reasonable.

**3. Distribution expense.**

The estimates of distribution expense vary considerably. Mr. Decker estimates approximately the same expense for 1923 as actually occurred in 1922. Mr. Dodge estimates the same cost per consumer as existed in 1922. The Southern California Edison Company will be required to expend during the year 1923 an additional sum in excess of normally on account of reconstruction required to place its line in compliance with the state law. It does not appear that full consideration was given to this item in the various estimates. However, in view of the fact that some reduction in rates is now justified, based upon 1923 conditions, it would hardly appear reasonable to include this abnormal expense in estimating rates which would largely not be in effect until the work is completed. The business of this utility, especially as regards retail distribution sales, is growing at a very rapid rate, approximating 25 per cent or more per year. The standard of service required at the present time is greater than was possible to maintain during the period 1918 to 1920. Those years were periods of some deferring of maintenance, as were the years 1921 and 1922 periods of additional maintenance. Adequate allowance should be made for distribution expense to insure good service. It is our conclusion, in view of the materially greater sales estimated herein than estimated by either Mr. Barre or Mr. Dodge, that an allowance of \$1,450,000 for distribution operation is reasonable.

**4. Commercial expenses.**

The estimates of commercial expenses, for the year 1923, were presented by Mr. Trott, for the company, and by Mr. Decker, for the cities. These estimates were \$900,000 and \$800,000 respectively, as compared with the actual for 1921 of \$729,440, the Commission's allowance for 1922 in Case No. 17,10 of \$750,000 and the actual for 1922 of \$816,308. The report for the twelve months ending July 31, 1923,

shows \$994,835. The larger item for 1922 includes a small amount for stock advertising expense, which it appears should largely be chargeable to organization rather than commercial expense and an allowance of approximately \$30,000 for a greater service campaign which, although being of some benefit to consumers, we can not conclude is entirely chargeable to them as an operating expense. It also appears that considerable stock selling activities are carried on by the company through its employees and, although segregation of expense is made for this item where directly determinable, we are convinced that this activity of employees is reflected in higher cost of operations than otherwise. The estimate submitted by Mr. Trott, for commercial expense, is at a rate per consumer approximately that allowed by the Commission for 1922, in Case No. 1710, and is closely comparable with previous allowances made in other decisions. The sales now to be expected greatly exceed those on which Mr. Trott's estimate is based. An allowance of \$900,000 under the conditions now to be expected appears reasonable.

##### 5. General expenses.

In Case No. 1710 the Commission allowed \$500,000 as the reasonable estimated general expense chargeable to operations. This compares with the claim of the company of \$580,000 and the actual expense as shown on the books for 1922 of \$629,105. This latter figure was later reduced by Mr. Trott to \$523,000 on account of charges to the Los Angeles purchase on account of severance. The allowance of \$500,000 was made based upon the conditions existing prior to the sale of the distribution system in Los Angeles to the city, although the amount was that allowance as chargeable to the business outside of the city. The evidence presented by Special Accountant Whittaker, of the Commission, indicates that in the general total expenses, applicable to capital and operations as charged by the company, there is a considerable amount representing an aggregate of a number of items which should not be charged to operating expenses. Some of these, it appears, should be charged to the cost of money and organization, some direct to capital and a large percentage to deductions from surplus. The total amount listed by Mr. Whittaker is in the neighborhood of \$100,000 per annum. This amount is included in the total expense of which later approximately 40 per cent is transferred to capital. The expenses classified, in his opinion, as not chargeable to either operation or capital, include financing of political campaigns or other such activity which it is apparent should not be charged to consumers. Deficits in the operation of certain clubs and lunch rooms by the company he excludes, and it would appear to us that these clubs should be operated so as to be self-



supporting. Many items of dues and donations were found to be included in general expense. We do not believe that donations or gifts in general should be so included and that only such amounts of dues should be included as result in actual benefit to the consumers, as distinguished from dues to organizations that are maintained largely for the interest of stockholders of the utility. As these items are included in the total expense before any proration is made to capital and other accounts, it would not appear that the total would be applicable to a deduction from general operating expense. Mr. Trott, for the company, in arriving at his estimate of \$600,000, estimates the total general expense at \$1,200,000, of which \$420,000 is charged to construction and \$170,000 deducted as chargeable to the purchase price of the Los Angeles system. This latter deduction, it appears, is in a sense an adjustment for severance damages, resulting from the sale of the system in Los Angeles. The deduction is based, apparently, on the proposition that it was not possible to reduce the general overhead costs in proportion to the reduction in the total business supervised and managed when the sale of the system to Los Angeles was made. It is very apparent that, with the sale of the system to Los Angeles, the outside consumers should not be burdened with a greater overhead and supervision cost than would have occurred had the sale not been consummated, and the theory followed appears in keeping with that principle. It would appear that in Mr. Trott's analysis no deduction was made for those items not chargeable to general expense as listed in Mr. Whittaker's report and that, therefore, Mr. Trott's estimate of \$600,000 should be reduced by \$40,000 to take account of the proportion of the deduction in general expense on account of charges which should have been made to surplus. With this deduction the amount for general expense is comparable with that found reasonable before the sale occurred. An allowance of \$560,000 will be made for general expense.

#### E. TAXES.

The company claims \$1,740,000 as the amount for 1923 taxes. The details of this claim are as follows:

State taxes 7.5 per cent of 1922 gross receipts.....	\$1,186,000 00
Capital stock tax \$1 per \$1,000 of outstanding stock.....	53,000 00
County and municipal franchise tax.....	40,000 00
Miscellaneous taxes .....	11,000 00
Federal income tax 12.5 per cent of 1923 corporate income.....	450,000 00
Total.....	\$1,740,000 00

It appears that the state tax is correctly estimated in accordance with the basis followed by this Commission and that the capital stock tax and franchise taxes are reasonable. The miscellaneous tax, as estimated,



includes certain nonoperative taxes which should not be charged to the electric business. This amount should be reduced to \$3,000. The allowance for federal income tax appears to be reasonable as to amount. There has been raised, in this proceeding, the question whether federal income tax should be included as an operating expense. In several important decisions by this Commission, involving electric rates of the San Joaquin Light and Power Corporation, Decision No. 10348 (21 C. R. C. 545), and Decision No. 11457 (22 C. R. C. 744), relative to the electric rates of the Pacific Gas and Electric Company, this Commission has held that federal income tax should not be charged to operating expense. Since these decisions were rendered, however, the Supreme Court of the United States, in the case of the *Georgia Railway and Power Company vs. Railroad Commission of Georgia*, issued June 11, 1923, has held that federal income tax is a proper operating expense. In that proceeding the Georgia Railroad Commission treated the tax as a proper operating charge and the lower court disallowed it. The Supreme Court, commenting on this, says: "In this the court erred." The Supreme Court, however, in the same decision points out, in the following language, the close relationship between the inclusion and exclusion of this tax from operating expenses and the rate of return which may be deemed fair and reasonable:

It must be borne in mind, as pointed out in *Galveston Electric Co. vs. Galveston, supra*, that, since dividends from the corporation are not included in the income on which the normal federal tax is payable by the stockholders, the tax exemption is, in effect, an additional return on the investment.

In view of the definite decision of the Supreme Court on this important subject it appears that, in determining the rates in this proceeding, the federal income tax should be included as a part of the operating expenses of the utility. It must be borne in mind, however, that due consideration should be given to this in determining the reasonable return which the company is entitled to on its property and that this return would not be the same as that considered reasonable in case federal income was not classified as an operating expense. The allowance for taxes will include federal income tax.

#### F. RENTALS.

Rental of plant represents mainly payment for lease of Fontana Power Company's plant. The estimate for 1923 is apparently based on 1922 actual rather than conditions pertaining to an average year. Revising this charge to the basis of an average year results in a total of \$60,000.

**G. UNCOLLECTIBLE BILLS.**

The allowance of \$20,000 for uncollectible bills, representing considerably less than one-half of one per cent of the revenue of the company, is a reasonable amount.

**H. SUMMARY OF REVENUE EXPENSE AND RETURN.**

The following Table No. 6 sets forth the revenue and return which should result, assuming the present rates to apply to the conditions as herein estimated for the year 1923:

**TABLE No. 6.**

**Estimated Revenue, Expense and Net Return, Southern California Edison Company, 1923 Estimate.**

Revenue electric operations.....	\$18,557,200 00
Expense:	
Production, labor and supplies.....	\$1,060,000 00
Fuel .....	940,000 00
Purchased power .....	360,000 00
	<hr/>
	\$2,360,000 00
Credit for power to construction at 1 cent.....	300,000 00
	<hr/>
	\$2,060,000 00
Transmission expense .....	370,000 00
Distribution expense .....	1,450,000 00
Commercial expense .....	900,000 00
General expense .....	560,000 00
Rentals .....	60,000 00
Uncollectible bills .....	20,000 00
Taxes .....	1,732,000 00
	<hr/>
Total expenses .....	\$7,152,000 00
Depreciation .....	1,430,000 00
	<hr/>
	\$8,582,000 00
	<hr/>
Net for return.....	\$9,975,200 00
Rate of return on rate base of \$103,237,631.....	9.65%

**I. SEVERANCE DAMAGES.**

Since Case No. 1710 was decided, Southern California Edison Company sold to the city of Los Angeles its electric distribution system located within the limits of that city. The actual transfer of the property occurred on May 16, 1922. This sale was the culmination of proceedings and negotiations started in 1915 when the city of Los Angeles applied to this Commission for a determination of the just compensation to be paid for the distribution system of the Southern California Edison Company. This Commission, in its Decision No. 3625 (11 C. R. C. 83), made its findings as to just compensation and included therein an allowance for severance damages. It appears that in that decision severance damages were allowed to cover the estimated loss resulting from idle production and transmission plant and reducing value of remaining property caused by the severance of the city system.

The proceeding was not carried forward to completion through the courts. The city and the Southern California Edison Company and Pacific Light and Power Corporation later entered into negotiations, the final result of which was an operating agreement and contract for sale, dated April 30, 1917, in which the distribution properties of both the Southern California Edison Company and the Pacific Light and Power Corporation within the city were to be transferred to the city for a price in general, based upon the Commission's decision as to the value of the property and payment for severance damages. In this agreement, however, the city contracted to purchase a minimum of 25,000 horsepower at a 36 per cent load factor. This agreement also provided for a comparable reduction in the severance damage allowance. Apparently this contract was not satisfactory to the city and later, in 1919, negotiations were again entered into which lasted for a considerable period and finally resulted in a new agreement, dated May 26, 1919, in which a lump sum price of \$11,000,000 for the property, plus additions and betterments, was agreed to and an operating agreement entered into whereby the system was to be operated for the benefit of the city pending actual transfer. The property was actually transferred under this agreement. From the testimony of Mr. R. H. Ballard, general manager of the company, in Case No. 1710, it appeared that in the price of \$11,000,000 there was an amount in excess of \$2,000,000 covering severance damages. There was no exact set-up of the item as the final price was the result of negotiations and compromise and it is difficult to determine what influence increased cost of construction and general enhancing of the value of the property from 1915 to 1919 had upon the final price. It appears that in this proceeding, Mr. Ballard reversed his testimony given in Case No. 1710, as in this proceeding he testified that none of the \$11,000,000 represented severance damages, while in Case No. 1710 he stated that the price included quite a large sum of money for what is called severance damages, stating that it was somewhat over \$2,000,000.

It is apparent from the evidence in this proceeding that as to severance damages to the company as the result of idle production and transmission plant, little or no severance actually occurred at the time the property was sold in 1922 (seven years after condemnation was started), as the growth of business was so rapid that the company was pressed to develop plants fast enough to take care of the growth of the load. Further, the company has continually been called upon to supply a large portion of the load within the city, which was not contemplated at the time of the original condemnation proceeding. It further appears that as to any severance damage resulting from the

diminution of return, the property within the city has been operated largely as a separate entity since the first operating agreement in 1917 was entered into. The company has maintained a general overhead and supervision expense, included mainly in general expense, chargeable partly to the leased system, up to the date of the final transfer of the property. The Edison Company, in its set-up in this proceeding, deducted an item of \$170,000 from its general expense to cover the amount of this item, not reduced as a result of the sale. In determining the general expense, in this proceeding, care has been taken to see that the general expense which may be allocated to the remaining business of the system is reasonable and no greater in proportion than has been found reasonable under the conditions prior to the transfer of property.

It appears to us, from an analysis of the evidence, that the severance which was estimated as resulting from idle plant has not occurred and that the public outside of Los Angeles is not burdened as a result. As to the other item of severance damage or rather increased cost resulting from the sale, full deduction through adjustment to general expense has been made. In view of this fact, we conclude that no further deductions be made to cover possible severance allowance which may have been included in the original sale price.

#### **Rate of return.**

The Commission, in Decision No. 8815 (19 C. R. C. 595), found a reasonable return for the electric operations of the Southern California Edison Company for the year 1921 to be 8.3 per cent, federal income tax being considered as an operating expense. In arriving at that rate of return, consideration was given to the then existing historical cost of money which had gone into the development of the system, the more or less unsettled conditions existing and the necessity for continuing development under those conditions. Since then the company has expended large sums of money in the extension and enlargement of its system, the rate of growth and necessary expenditures of capital at the present time being approximately 20 per cent per annum. With the enlargement and expansion of applicant's properties and the electric industry in general and the further acquisition of important economic hydro-electric developments, the hazard of the business which has generally been recognized in the determination of a reasonable return has been reduced. Moreover, interest rates have declined and general financial and economic conditions have become more stable. The evidence indicates that the effective interest rate of borrowed money now invested in the Edison Company's properties is approxi-

nately 6.633 per cent per annum and that at present it should secure money through the issue of bonds on a basis ranging from 6 per cent to 6.3 per cent.

Southern California Edison Company urges that the year 1923 will be one of especially heavy financial requirements for the reason that a large amount of additional capital will become operative and that interest heretofore charged to construction will become a charge against income. Increased sales and reduction in fuel requirements will, in general, fully cover this increased fixed charges.

It would appear, in view of the general tendency toward an increase in the profits from the business caused by concentration of the load and an increase in the use of electricity, as well as reduction in operating costs, that rates should now be fixed which may result in an estimated return, based on capital and sales somewhat less than would be considered reasonable on the average. On the other hand, this company is faced with the necessity of rapid enlargement of its system and of making large expenditures to meet the unprecedented growth of southern California. In view of all the conditions existing, we are of the opinion that a return of approximately 7.5 per cent on the 1923 basis (federal income tax being considered as an operating expense), is a reasonable return, it being expected that as business increases with the rapid growth of the territory served, the net return will increase somewhat. Special care on the part of the management of the utility should also result in some increases in efficiency and reduction in cost of operation, a part of the results of which at least should be available to the utility as compensation for such improved efficiencies.

#### Reduction in rates.

It would appear from the evidence that, under the present conditions, a further reduction in rates may be made resulting in a total revenue reduction, based upon 1923 operations, of approximately \$2,200,000.

In this proceeding no detailed investigation has been made to determine whether a complete readjustment of rates should be made. It was the position of practically all interested parties that any reduction which should be made should, in general, be applied uniformly to all customers. A general analysis of the reduction of the cost of service indicates that larger percentage of reduction is at this time justified in the rates for lighting and general power service than for the wholesale power consumers. This is due, to a considerable extent, to the very marked increase in lighting business and the increasing use of electricity under the lighting rates and to the concentration of the lighting and general power load.

The existing rates of the Southern California Edison Company are, in general, similar to those fixed in 1921, the rates other than minimum, however, being discounted 12 per cent for lighting, 10 per cent for general power, and 8 per cent for railway power, these discounts being made effective by the Commission's Order No. 10350 in Case No. 1710. Case No. 1710 was an emergency proceeding and the discounts were made applicable in somewhat the same way as surcharges were added during the period of increasing costs. It does not appear advisable to continue the discount form of rate from now on. An analysis by the Commission's engineering department indicates the advisability of some changes in the minimum charges for industrial and agricultural power and some slight changes in the former rate. It appears that schedules P-6 and P-7 may advantageously be eliminated with the further reduction of schedule P-15 for agricultural service, and that schedule P-2 may be eliminated with the reduction of schedule P-1.

We find the rates as set forth in Exhibit "A" attached to this order to be just and reasonable rates for service to be rendered to be based on meter readings taken on and after November 15, 1923.

#### ORDER.

The Railroad Commission having instituted a proceeding on its own motion to make a complete investigation of the rates, rules and practices of the Southern California Edison Company and to determine the just and reasonable rates to be charged by Southern California Edison Company for electric service, the matter having been submitted and ready for decision:

The Railroad Commission hereby finds as a fact that the rates charged by Southern California Edison Company for electric service, now in effect, are unjust and unreasonable in so far as they differ from the rates as modified herein, which modified rates are found to be just and reasonable for metered service rendered, based upon regular meter readings taken on and after November 15, 1923, and for flat rate service rendered on and after November 1, 1923.

Basing its order on the foregoing finding of fact and the findings of fact set forth in the opinion preceding this order;

*It is hereby ordered*, that Southern California Edison Company shall:

(1) Charge for electric service rendered, based upon regular meter readings taken on and after November 15, 1923, for metered service, and for service rendered on and after November 1, 1923, for flat rate service, the schedule of rates as set forth in Exhibit "A" attached hereto and made a part of this order, provided that Southern California

son Company may continue special contracts or rates for street lighting service to existing service to the end of the present contract where such rates and charges may result in a saving to consumers.

2) File with the Railroad Commission on or before November 1, 1923, schedule of electric rates as set forth in Exhibit "A."

It is hereby further ordered, that Southern California Edison Company may modify its stipulation heretofore made with the Commission relative to the maintenance of a contingency reserve so that the basis of additions and deductions from said reserve on and after November 1, 1923, shall be at \$0.85 per barrel for oil.

The effective date of this order is November 1, 1923.

Witness my hand at San Francisco, California, this seventeenth day of October, 1923.

## EXHIBIT "A."

### SCHEDULE OF RATES.

#### Southern California Edison Company.

Effective for metered service based upon regular meter readings taken on and after November 15, 1923, and for flat rate service rendered on and after November 1, 1923.

#### Schedule L-1.

##### General Lighting Service.

Applicable to general domestic and commercial lighting service, including household appliances and single phase motors of not to exceed 3 horsepower total capacity.

##### Territory.

Southern California districts.

1.

First 50 k.w.h. per meter per month-----	6.5¢ per k.w.h.
Next 200 k.w.h. per meter per month-----	5.5 per k.w.h.
Next 750 k.w.h. per meter per month-----	5.0 per k.w.h.
Next 1000 k.w.h. per meter per month-----	4.5 per k.w.h.
Next 3000 k.w.h. per meter per month-----	3.5 per k.w.h.
Over 5000 k.w.h. per meter per month-----	3.0 per k.w.h.

##### Minimum Charge.

Inside incorporated municipalities-----	\$1 00 per meter per month
Outside incorporated municipalities-----	1 25 per meter per month

##### Special Conditions.

When separate transformers are required to be installed on lines in excess of 100 volts in territory outside of incorporated municipalities, the minimum charge per meter will be as follows:

One consumer per transformer-----	\$2 50 per month
Two consumers or more per transformer-----	1 25 per month

#### Schedule L-2.

##### Well Lighting Service.

Applicable to general lighting service used in connection with drilling and pumping wells and operating oil well properties.

##### Territory.

Southern California and San Joaquin Valley districts.

1.

7 cents per kilowatt hour.

##### Minimum Charge.

25¢ per meter per month.

**Special Conditions.**

(a) Electric energy to be delivered at a central point. The consumer shall install and maintain the distribution system for lighting purposes.

(b) In event a consumer desires emergency or standby service the company will install, own and maintain the necessary transforming facilities, the consumer accepting service at this point and providing his own distribution lines.

As a charge for this service the consumer agrees to pay monthly at a rate of 40 cents per kilowatt of transformer capacity but not less than \$4 plus the energy charge under this schedule.

**Schedule L-3.****Service for Type "C" Mazda Lamps.**

Applicable to service for type "C" Mazda lamps for outside lighting purposes only and burning until 10 p.m. every night.

**Territory.**

Southern California districts.

**Rate.**

Size of lamp	Rate per lamp per month
300 watt -----	\$2 80
400 watt -----	3 40
500 watt -----	4 00

**Special Conditions.**

Under this schedule the company will install, maintain and make necessary lamp renewals, at the company's entire expense.

**Schedule L-4.****General Lighting Service.**

Applicable to general domestic and commercial lighting service, including household appliances and single phase motors of not to exceed 3 horsepower total capacity. For commercial lighting service this schedule is optional to Schedule L-5.

**Territory.**

San Joaquin Valley districts.

**Rate.**

First 30 k.w.h. per meter per month-----	7.0¢ per k.w.h.
Next 70 k.w.h. per meter per month-----	6.0 per k.w.h.
Next 200 k.w.h. per meter per month-----	5.0 per k.w.h.
Next 1200 k.w.h. per meter per month-----	4.0 per k.w.h.
All over 1500 k.w.h. per meter per month-----	3.25 per k.w.h.

**Minimum Charge.**

Inside incorporated municipalities-----	\$1 00 per meter per month
Outside incorporated municipalities-----	1 25 per meter per month

**Special Conditions.**

When separate transformers are required to be installed on lines in excess of 5000 volts in territory outside incorporated municipalities, the minimum charge per meter will be as follows:

One consumer per transformer-----	\$2 50 per month
Two consumers or more per transformer-----	1 25 per month

**Schedule L-5.****Commercial Lighting Service.**

Applicable to commercial lighting service. This schedule is optional to Schedule L-4.

**Territory.**

San Joaquin Valley districts.

**Rate.**

Demand charge—	
First 4 k.w. of monthly maximum demand-----	\$8 50 per month
All over 4 k.w. of monthly maximum demand-----	\$1 70 per k.w. per month

**Energy Charge.**

2.5 cents per kilowatt hour.



*Special Conditions.*

- (a) The total monthly charge is the sum of the demand and energy charges.  
 (b) Under this schedule demand and watt-hour meters will be supplied, owned and maintained by the company and at the company's expense.  
 (c) The maximum demand shall be the greatest average kilowatt demand registered during any 15-minute interval during the month for which the bill is rendered.

**Schedule L-6. Public Outdoor Lighting Service.**

This schedule is to be canceled and superseded by Schedules L-8 and L-10.

**Schedule L-7. Special Street Lighting Service.**

Basic rates as set forth in present schedule less 20 per cent. Rate to be to nearest one cent.

**Schedule L-8. Street and Highway Lighting.**

This schedule is to cancel and supersede L-6 for incandescent lamps and be made applicable to entire territory served.

Basic rates as set forth in present Schedule L-8 less 20 per cent. Rate to be to nearest one cent.

**Schedule L-9. Street and Highway Lighting.**

This schedule is to be made applicable to entire territory served.

Basic rates as set forth on present Schedule L-9 less 20 per cent. Rate to be to nearest one cent for maintenance and lamp rate and to nearest one mill for energy rate.

**Schedule L-10. Street and Highway Lighting.**

This schedule is to be made applicable to cancel and supersede L-6 for arc lamps and to entire territory served.

Basic rates as set forth on present Schedule L-10 less 20 per cent. Rate to be to nearest one cent.

**Schedule C-1.***General Heating and Cooking and Combination Service.*

Applicable to general domestic and commercial heating, cooking and/or water heating service, and to combination lighting with heating, cooking and/or water heating service.

*Territory.*

Southern California districts.

*Rates.*

- (a) Heating, Cooking and/or Water Heating Service:  
     First 150 k.w.h. per meter per month..... 3.0¢ per k.w.h.  
     All over 150 k.w.h. per meter per month..... 2.0 per k.w.h.
- (b) Combination Lighting with Heating, Cooking and/or Water Heating Service  
 (Applicable to Residences, Flats or Apartments of Seven Rooms or Less):  
     First 25 k.w.h. per meter per month..... 6.5¢ per k.w.h.  
     Next 125 k.w.h. per meter per month..... 3.0 per k.w.h.  
     All over 150 k.w.h. per meter per month..... 2.0 per k.w.h.
- (c) Combination Lighting with Heating, Cooking and/or Water Heating Service  
 (Applicable to Residences, Flats or Apartments of Eight Rooms or Over):  
     First 50 k.w.h. per meter per month..... 6.5¢ per k.w.h.  
     Next 150 k.w.h. per meter per month..... 3.0 per k.w.h.  
     All over 200 k.w.h. per meter per month..... 2.0 per k.w.h.

*Minimum Charge.*

- (a) Heating, Cooking and Combination Service (Excluding Instantaneous Water Heating Service):  
     First 7 k.w. or less.....\$3 00 per month  
     All over 7 k.w.....\$0 50 per k.w. per month
- (b) Instantaneous Water Heating Service:  
     75 cents per k.w. per month but not less than \$3 per month.
- (c) Combination Cooking, Heating and Instantaneous Water Heating Service:  
     First 7 k.w. of heating and/or cooking appliances  
     (excluding instantaneous water heater)..... \$0 45 per k.w. per month  
     All over 7 k.w. of heating and/or cooking appliances  
     (excluding instantaneous water heater)..... 50 per k.w. per month  
     Plus \$0.75 per k.w. of water heater capacity per month.  
     In no case shall the total minimum charge be less than \$3 per month.

**Special Conditions.**

(a) Rates (b) and (c) apply only where consumer installs and uses cooking, heating or water heating appliances other than lamp socket devices of at least 2 kilowatts capacity.

(b) Bathrooms, halls and cellars are not classified as rooms.

(c) Connected load taken as the nameplate rating of all heating and cooking apparatus permanently connected and which may be connected at any one time, computed to the nearest 1/10 of a kilowatt, but in no case less than 2 kilowatts.

(d) Single phase power service (3 h.p. or less) may be combined under this schedule, in which case each horsepower of connected load shall be considered equivalent to 1 kilowatt of connected load in determining the minimum charge.

**Schedule C-2.****General Heating, Cooking and Combination Service.**

Applicable to general domestic and commercial heating, cooking and/or water heating service, and to combination lighting with heating, cooking and/or water heating service.

**Territory.**

San Joaquin Valley districts.

**Rate.**

(a) Heating, Cooking and/or Water Heating Service:

First 150 k.w.h. per meter per month----- 3.0¢ per k.w.h.

All over 150 k.w.h. per meter per month----- 1.5 per k.w.h.

(b) Combination Lighting with Heating, Cooking and/or Water Heating Service (Applicable to Residences, Flats or Apartments of Eight Rooms or Less):

First 30 k.w.h. per meter per month----- 7.0¢ per k.w.h.

Next 130 k.w.h. per meter per month----- 3.0 per k.w.h.

All over 160 k.w.h. per meter per month----- 1.5 per k.w.h.

**Minimum Charge.**

\$0.50 per kilowatt of active connected load, but not less than \$2.50 per month.

**Special Conditions.**

(a) Rate (b) applies only where consumer installs and uses cooking, heating or water heating appliances other than lamp socket devices of at least 2 kilowatts capacity.

(b) Bathrooms, halls and cellars are not classified as rooms.

(c) Connected load taken as the nameplate rating of all heating and cooking apparatus permanently connected and which may be connected at any one time, computed to the nearest 1/10 of a kilowatt, but in no case less than 2 kilowatts.

(d) Combination service is not rendered for residences, flats or apartments of over eight rooms.

(e) Single phase power service (3 horsepower or less) may be combined under this schedule, in which case each horsepower of connected load shall be considered equivalent to 1 kilowatt of connected load in determining the minimum charge.

**Schedule P-1.**

Cancels Schedules P-1, P-2 and P-4.

**General Power Service.**

Applicable to general power service at standard voltages.

**Territory.**

Entire territory served.

**Rate.**

Horsepower of connected load  
or  
Measured maximum demand

Cents per k.w.h. per h.p. per month

	First 50 k.w.h. per h.p.	Next 50 k.w.h. per h.p.	Next 100 k.w.h. per h.p.	All over 200 k.w.h. per h.p.
2 to 4-----	4.4	2.4	1.20	1.00
5 to 9-----	3.6	2.2	1.15	.90
10 to 24-----	3.2	2.0	1.05	.85
25 to 49-----	2.8	1.8	.95	.80
50 to 99-----	2.4	1.6	.90	.75
100 to 249-----	2.2	1.5	.85	.70
250 to 499-----	2.1	1.4	.80	.65
500 to 999-----	2.0	1.3	.75	.60
1000 to 2499-----	1.9	1.1	.70	.60
2500 to 4999-----	1.85	0.95	.65	.60
5000 and over-----	1.8	0.85	.62	.60

*Minimum Charge.*

First 50 h.p. of connected load-----	\$1 00 per h.p. per month
All over 50 h.p. of connected load-----	75 per h.p. per month
But in no case shall total minimum charge be less than \$2 per month.	

*Special Conditions.*

(a) This schedule applies to service rendered at 220 volts or over at option of consumer. All necessary transformers to obtain such voltage will be supplied, owned and maintained by the company.

(b) The above rate and minimum charge may be based on horsepower of measured maximum demand instead of horsepower of connected load, providing the installation consists of at least two motors and has a total connected capacity of at least 50 horsepower, in which case the horsepower of demand on which the rates and minimum charge will be based will be not less than 40 per cent of the connected load and in no case shall the minimum be less than \$50 per month.

(c) The maximum demand in any month shall be the average horsepower input (746 watts equivalent) indicated or recorded by instruments to be supplied, owned and maintained by the company and at the company's expense upon the consumer's premises, adjacent to watt-hour meters, in the 15-minute interval in which the consumption of electric energy is greater than in any other 15-minute interval in the month, or, at the option of the company the maximum demand may be determined by test.

In the case of connected loads of 500 horsepower or over, the company may base the consumer's maximum demand upon a 30-minute interval instead of a 15-minute interval.

In the case of hoists, elevators, welding machines, furnaces and other installations where the energy demand is intermittent, or subject to violent fluctuations, the company may base the consumer's maximum demand upon a 5-minute interval instead of a 15-minute interval.

(d) Any consumer may obtain the rates for a large installation by guaranteeing the rates and minimum charge applicable to the larger installation.

(e) Where the primary use of power is seasonal the minimum charge may, at the option of the consumer, be made accumulative over a twelve months period.

(f) Maximum demand meters, when used, will be installed and maintained by the company at its expense.

(g) Any demands for installations in excess of 250 horsepower occurring between the hours of 11 p.m. and 6 a.m. of the following day will not be considered in computing charges under this schedule.

**Schedule P-3.***Wholesale Power Service.*

Applicable to industrial and resale service delivered at standard voltage of 2200 volts or more.

*Territory.*

Southern California districts.

*Rate.**Demand charge—*

First 200 k.w. of maximum demand-----	\$1 25 per k.w. per month
But not less than \$250 per month.	
Next 300 k.w. of maximum demand-----	1 05 per k.w. per month
Over 500 k.w. of maximum demand-----	85 per k.w. per month
<i>Plus</i>	

*Energy charge—*

First 200,000 k.w.h. per month-----	7.5 mills per k.w.h.
Next 300,000 k.w.h. per month-----	6.6 mills per k.w.h.
Over 500,000 k.w.h. per month-----	6.2 mills per k.w.h.

*Special Conditions.*

(a) Service under this schedule will be supplied by the company at the standard voltage of 2200 volts or over as requested by the consumer. Transforming equipment, if required, will be owned and installed by the company and maintained at its expense.

(b) The maximum demand in any month will be the average kilowatt delivery in the 30-minute interval in which the consumption of electric energy is greater than in any other 30-minute interval in the month. The maximum demand on which the readiness-to-serve charge will be based will be not less than 70 per cent of the maximum demand occurring during the eleven months preceding.

Any demand occurring between the hours of 11 p.m. and 6 a.m. of the following day will not be considered when computing charges under this schedule.

(c) In case of seasonal service, the consumer may at his option have the readiness-to-serve charge based on the average of the three monthly highest demands created during the 12 months' period, in which case the total seasonal readiness-to-serve charge will be nine times the monthly charge above listed.

#### Schedule P-5.

##### Wholesale Power Service.

Applicable to industrial and resale service delivered at standard voltage of 2200 volts or more. This schedule is optional to Schedules P-1 and P-8.

##### Territory.

San Joaquin Valley districts.

##### Rate.

###### Demand charge—

First 200 k.w. of maximum demand-----	\$1 05 per k.w. per month
But not less than \$210 per month.	
Next 300 k.w. of maximum demand-----	85 per k.w. per month
Over 500 k.w. of maximum demand-----	75 per k.w. per month

###### Plus

###### Energy charge—

First 100,000 k.w.h. per month-----	6.8 mills per k.w.h.
Over 100,000 k.w.h. per month-----	6.4 mills per k.w.h.

##### Special Conditions.

(a) Service under this schedule will be supplied by the company at the standard voltage of 2200 volts or over, as requested by the consumer. Transforming equipment, if required, will be owned and installed by the company and maintained at its expense.

(b) The maximum demand in any month will be the average kilowatt delivery in the 30-minute interval in which the consumption of electric energy is greater than in any other 30-minute interval in the month. The maximum demand on which the readiness-to-serve charge will be based will be not less than 70 per cent of the maximum demand occurring during the eleven months preceding.

Any demand occurring between the hours of 11 p.m. and 6 a.m. of the following day will not be considered when computing charges under this schedule.

(c) In case of seasonal service, the consumer may, at his option, have the readiness-to-serve charge based on the average of the three monthly highest demands created during the twelve months' period, in which case the total seasonal readiness-to-serve charge will be nine times the monthly charge above listed.

#### Schedule P-8.

##### Agricultural Power Service.

Applicable to general agricultural power service.

##### Territory.

San Joaquin Valley districts.

##### Rate.

Annual consumption per h.p.	Rate per k.w.h. for connected loads of				
	1 h.p. to 4 h.p.	5 h.p. to 14 h.p.	15 h.p. to 49 h.p.	50 h.p. to 99 h.p.	100 h.p. and over
First 500 k.w.h. per h.p.-----	2.7 cents	2.5 cents	2.4 cents	2.3 cents	2.2 cents
Next 500 k.w.h. per h.p.-----	1.8 cents	1.6 cents	1.5 cents	1.4 cents	1.3 cents
All over 1000 k.w.h. per h.p.-----		7.5 mills per k.w.h.			
Minimum charge per h.p. per year-----	\$13 50	\$12 50	\$11 50	\$11 00	\$10 50
		but not less than \$25.00.			

##### Special Conditions.

(a) This rate applies to service rendered at 220 or 440 volts at the option of the consumer. All necessary transformers to obtain such voltage to be installed, owned and maintained by the company.

(b) The annual period upon which this rate is based shall begin with first regular meter reading taken on and after May 1st and end with the last regular meter reading taken prior to May 1st of the succeeding year.

(c) The minimum charge is payable in six monthly installments during the months of May to October, inclusive.

(d) Consumers may elect to pay the following respective amounts, plus 7.5 mills per kilowatt hour in six equal monthly installments during the months of May to October, inclusive, instead of the rates above set forth for the first 1000 kilowatt hours per horsepower per year.

1 to 4 h.p.	-----	\$15 00 per h.p.
5 to 14 h.p.	-----	13 00 per h.p.
15 to 49 h.p.	-----	12 00 per h.p.
50 to 99 h.p.	-----	11 00 per h.p.
100 and over	-----	10 00 per h.p.

**Schedule P-9.**

Service to X-Ray Apparatus.

*Territory.*

Applicable to Southern California and San Joaquin Valley districts.

*Rate.*

Established power rate.

*Minimum Charge.*

Where the company finds it necessary to install any special equipment other than the customary meter and service, in order to supply service to X-Ray apparatus, the minimum monthly charge shall be 50 cents per kilowatt of special transformer capacity required to serve.

Where service to X-Ray apparatus does not require installation of any special equipment, no horsepower or kilowatt minimum charge shall apply and only the meter minimum specified in the rate used shall be considered.

*Special Conditions.*

If X-Ray apparatus is separately served it shall be classed as power equipment and service shall be rendered in accordance with the general power rate applying in the various territories, except that the horsepower or kilowatt minimum provision of any such rate shall be modified as provided above.

**Schedule P-10.***Summer Resort Service.*

Optional schedule applicable to electric service to pleasure piers, amusement enterprises at beach or other resorts.

*Territory.*

Southern California and San Joaquin Valley districts.

*Rate.*

First 500 k.w.h. per meter per month	-----	5.6¢ per k.w.h.
Next 500 k.w.h. per meter per month	-----	4.8 per k.w.h.
Next 500 k.w.h. per meter per month	-----	4.0 per k.w.h.
Next 1500 k.w.h. per meter per month	-----	3.2 per k.w.h.
Next 1500 k.w.h. per meter per month	-----	2.8 per k.w.h.
All over 4500 k.w.h. per meter per month	-----	2.4 per k.w.h.

*Minimum Charge.*

\$1,500 per year payable in twelve equal monthly installments.

*Special Conditions.*

This schedule will apply to all service desired, including heating, power and lighting service.

**Schedule P-11.***Oil Well Power Service.*

Optional schedule applicable to power service and combination lighting and power service required in the operation or developing of oil wells or oil properties.

*Territory.*

Southern California and San Joaquin Valley districts.

*Rate.**Demand charge—*

Type of service	Monthly demand charge
(1) Double rated motors----	\$1 00 per h.p. of average of high and low ratings
(2) Single rated motors----	1 00 per h.p.
(3) Cooking and heating---	80 per k.w.
(4) Lighting -----	1 60 per k.w.

The total demand charge is the sum of the charges under sections (1) to (4) inclusive, but in no case shall the total charge be less than \$15 per month.

*Energy charge—*

1.15 cents per kilowatt hour.

**Special Conditions.**

Service under this schedule is to be supplied by the company at a standard distribution voltage of 2200 volts or over.

**Schedule P-12.****Intermittent Service.**

Applicable to industrial or agricultural power service required intermittently throughout the year. For industrial power service this schedule may be selected instead of Schedule P-1, and for agricultural power service this schedule may be selected instead of P-8 or P-15, depending upon the territory in which service is rendered.

**Territory.**

Southern California and San Joaquin Valley districts.

**Rate.****(a) Demand charge—Industrial and agricultural power service—**

First 10 h.p. connected load..... \$4 50 per h.p. per year  
All over 10 h.p. connected load..... 3 15 per h.p. per year

**(b) Energy charge—****1. Industrial power service.**

The energy charges, without the minimum charges, as set forth under Schedule P-1, depending upon the territory in which service is rendered.

**2. Agricultural power service.**

The energy charges without the minimum charges set forth under Schedules P-8 or P-15,\* depending upon the territory in which service is rendered.

**Special Conditions.**

(a) The total charge is the sum of the demand charges and energy charges stated above.

(b) The demand charge is payable in five equal installments during the first five months after the date service is first rendered. Consumers may select, if satisfactory to the company, other months in which to pay the demand charge.

\*Special condition (d) of Schedules P-8 and P-15 does not apply for service under the above rate.

**Schedule P-13.****Railway Service.**

Applicable to electric service to Los Angeles Railway Company and Pacific Electric Railway Company. Service to be delivered and measured at 15,000 volts as agreed between the company and the railroad companies.

**Rate.**

0.775 cents per kilowatt hour.

**Schedule P-14.****Wireless Telegraph Service.**

Applicable to service to wireless telegraph installations.

**Territory.**

Southern California and San Joaquin districts.

**Rate.**

Established power rate.

**Minimum Charge.**

For installations requiring 2 k.w. transformers or less..... \$2 50 per month  
For installations requiring in excess of 2 k.w. and not exceeding  
5 k.w. transformers..... 3 75 per month

**Special Conditions.**

Installation charge for 2 k.w. transformer or less..... \$10 00  
Installation charge for transformer in excess of 2 k.w. and not exceeding  
5 k.w. .... 15 00

For permanent commercial installations, established power schedules may apply. In the event that service is continued for a period of twelve consecutive months, the installation charge herein provided will be refunded.

**Schedule P-15.**

Cancels P-6, P-7 and P-15.

**Agricultural Power Service.**

Applicable to general agricultural power service.

*Territory.*

Southern California districts.

*Rate.*

	Rate per k.w.h. for connected loads of				
	1 h.p. to 4 h.p.	5 h.p. to 14 h.p.	15 h.p. to 49 h.p.	50 h.p. to 99 h.p.	100 h.p. and over
First 400 k.w.h. per h.p.-----	3.2 cents	2.7 cents	2.5 cents	2.3 cents	2.2 cents
Next 600 k.w.h. per h.p.-----	1.8 cents	1.6 cents	1.4 cents	1.3 cents	1.2 cents
All over 1000 k.w.h. per h.p.-----	1.2 cents	1.1 cents	1.0 cent	0.95 cent	0.9 cent
Minimum charge per h.p. per year-----	\$9 00	\$8 00	\$7 50	\$7 25	\$7 00
	but not less than \$15.00 per year.				

*Special Conditions.*

(a) This rate applies to service rendered at 220 or 440 volts at the option of the consumer. All necessary transformers to obtain such voltage to be installed, owned and maintained by the company.

(b) The annual period upon which this rate is based shall begin with first regular meter reading taken on and after May 1st and end with the last regular meter reading taken prior to May 1st of the succeeding year.

(c) The minimum charge is payable in six monthly installments during the months of May to October, inclusive.

(d) Consumers desiring, may elect to pay the following respective amounts in six equal monthly installments during the months of May to October, inclusive, plus the energy rates set forth in the last block above for all energy consumed:

1 to 4 h.p.-----	\$11 60 per h.p.
5 to 14 h.p.-----	9 40 per h.p.
15 to 49 h.p.-----	8 40 per h.p.
50 to 99 h.p.-----	7 50 per h.p.
100 and over-----	7 00 per h.p.

## DECISION No. 12719.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHT OR PRIVILEGE GRANTED TO IT UNDER A FRANCHISE TO ERECT, LAY, CONSTRUCT, MAINTAIN, USE AND OPERATE AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF MONTEREY PARK, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 9214.

Decided October 18, 1923.

*E. W. Cunningham*, for Applicant.*Thos. A. Berkebile*, City Attorney, for Monterey Park.*SHORE*, Commissioner.

## OPINION.

This is an application by Southern California Edison Company declaring that public convenience and necessity require the exercise by it of the rights and privileges to construct, operate and maintain an electric distribution and transmission system within the city limits of Monterey Park as granted by the board of trustees of the city of Monterey Park by Ordinance 121, dated March 12, 1923. A public hearing was held in this matter on August 22, 1923, at which time

evidence was submitted and stipulations made and the matter taken under submission.

Applicant has for a number of years prior to March 12, 1923, furnished electrical energy to the territory comprising the present boundaries of the city of Monterey Park, under franchises granted by the board of supervisors of the county of Los Angeles, State of California, this being prior to the date of the present incorporation as a municipality of the territory herein considered. Testimony indicated that no other utility is engaged in the rendering of electric service in this territory, and that public convenience and necessity require the exercise by Southern California Edison Company of the rights of this franchise.

A copy of Ordinance 121 of Monterey Park has been attached to the application in this proceeding and grants to Southern California Edison Company a franchise for the period of thirty-five (35) years to erect, lay, construct and maintain poles, towers, cross-arms, conduits, cables, wires and other appliances under, in, along, and across public highways, streets, and other public places within the city of Monterey Park. Standards for construction work are specifically detailed in the requirements of the franchise. The franchise prescribes that a bond of one thousand dollars (\$1,000) be filed with the city. It further provides that the grantee shall pay to the city of Monterey Park an amount equal to 2 per cent of the gross annual receipts of grantee arising from the operation of said franchise within said city, such charges to start immediately and payment to be made at the end of each year.

Applicant has filed with this Commission a stipulation duly executed by proper officers of the company stating that it will never claim before the Railroad Commission of the State of California, nor any court, nor other public body having jurisdiction, a value for this franchise in excess of its actual cost, which cost is stipulated to be the sum of three hundred dollars (\$300).

I herewith submit the following form of order:

#### ORDER.

Southern California Edison Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to it by the city of Monterey Park under Ordinance 121, dated March 12, 1923, a hearing having been held, copies of said franchise and a stipulation as to the claim for value thereof having been duly filed in forms satisfactory to the Commission;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require, the



exercise by Southern California Edison Company of the rights and privileges granted under Ordinance 121 of the city of Monterey Park.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this eighteenth day of October, 1923.

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DECISION No. 12720.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHT OR PRIVILEGE GRANTED TO IT UNDER A FRANCHISE TO ERECT, LAY, CONSTRUCT, MAINTAIN, USE AND OPERATE AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF MONTEBELLO, LOS ANGELES COUNTY, CALIFORNIA.

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Application No. 9215.

Decided October 18, 1923.

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*E. W. Cunningham*, for Applicant.  
*SHORE*, Commissioner.

**OPINION.**

This is an application by Southern California Edison Company declaring that public convenience and necessity require the exercise by it of the rights and privileges to construct, operate and maintain an electric distribution and transmission system within the city limits of Montebello as granted by the board of trustees of the city of Montebello by Ordinance 77, dated April 7, 1923. A public hearing was held in this matter on August 22, 1923, at which time evidence was submitted and stipulations made and the matter taken under submission.

Applicant has for a number of years prior to April 7, 1923, furnished electrical energy to the territory comprising the present boundaries of the city of Montebello, under franchises granted by the board of supervisors of the county of Los Angeles, State of California, this being prior to the date of the present incorporation as a municipality of the territory herein considered. Testimony indicated that no other utility is engaged in the rendering of electric service in this territory, and that public convenience and necessity require the exercise by Southern California Edison Company of the rights of this franchise.

A copy of Ordinance 77 of Montebello has been attached to the application in this proceeding and grants to Southern California Edison

Company a franchise for the period of thirty-five (35) years to erect, lay, construct and maintain poles, towers, cross-arms, conduits, cables, wires and other appliances under, in, along, and across public highways, streets, and other public places within the city of Montebello. Standards for construction work are specifically detailed in the requirements of the franchise. The franchise prescribes that a bond of one thousand dollars (\$1,000) be filed with the city. It further provides that the grantee shall pay to the city of Montebello an amount equal to 2 per cent of the gross annual receipts of grantee arising from the operation of said franchise within said city, such charges to start immediately and payment to be made at the end of each year.

Applicant has filed with this Commission a stipulation duly executed by proper officers of the company stating that it will never claim before the Railroad Commission of the State of California, nor any court, nor other public body having jurisdiction, a value for this franchise in excess of its actual cost, which cost is stipulated to be the sum of one hundred dollars (\$100).

I herewith submit the following form of order:

#### ORDER.

Southern California Edison Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to it by the city of Montebello, under Ordinance 77, dated April 7, 1923, a hearing having been held, copies of said franchise and a stipulation as to the claim for value thereof having been duly filed in forms satisfactory to the Commission;

The Railroad Commission of the State of California hereby declares that public convenience and necessity require, and will require, the exercise by Southern California Edison Company of the rights and privileges granted under Ordinance 77 of the city of Montebello.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this eighteenth day of October, 1923.



## DECISION No. 12209.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF ONE MILLION DOLLARS AND TO SELL THE SAME.

Application No. 9058.

Decided June 14, 1923.

*Le Roy M. Edwards*, for Applicant.

BY THE COMMISSION.

## OPINION.

Southern Counties Gas Company of California in this application, as amended at the hearing held before Examiner Fankhauser, asks permission to issue and sell at not less than 88½ per cent of their face value and accrued interest \$1,000,000 of 5½ per cent first mortgage bonds due May 1, 1936, for the purpose of reimbursing its treasury and securing funds for construction purposes.

Applicant reports that from October 1, 1922, to April 30, 1923, it expended for extensions, additions and betterments in its various districts amounts as follows:

General (credit item).....	\$2,181 64
Orange County District.....	237,871 12
Whittier District.....	158,953 23
Pomona District.....	71,258 32
Monrovia District.....	37,266 06
Long Beach District.....	344,830 85
San Pedro District.....	66,860 13
Santa Monica Bay District.....	298,871 03
Santa Barbara District.....	48,146 24
Ventura District.....	55,673 52
Total .....	\$1,317,548 86

A detailed statement of the expenditures is on file in this proceeding. Though the company asks permission to issue bonds to reimburse its treasury because of moneys represented by reserves and corporate surplus invested in fixed capital, it is of record that all the proceeds obtained from the sale of the bonds will be used to pay for additional extensions, additions and betterments to applicant's properties. Applicant estimates its 1923 net construction expenditures at approximately \$2,354,000.

As of April 30, 1923, applicant reports outstanding \$1,500,000 of common stock and \$1,243,800 of 8 per cent preferred stock. Its funded debt is reported at \$7,827,200 and consists of \$6,555,400 of first mortgage twenty-year 5½ per cent bonds due May 1, 1936, \$600,000 of second mortgage 6 per cent sinking fund notes due December 1, 1924, and \$671,800 of ten-year collateral trust 8 per cent bonds due December 1, 1930.

05-24801

**ORDER.**

Southern Counties Gas Company of California having applied to the Railroad Commission for permission to issue \$1,000,000 face value of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that this application should be granted as herein provided; therefore

*It is hereby ordered*, that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell at not less than 88½ per cent of their face value and accrued interest \$1,000,000 of 5½ per cent first mortgage bonds due May 1, 1936.

The authority herein granted is subject to further conditions as follows:

(1) The proceeds obtained from the sale of the bonds shall be used by applicant to reimburse its treasury on account of moneys expended prior to April 30, 1923, for extensions, additions and betterments to its plants and properties. After the proceeds have been used for such purpose, they shall be expended for paying the cost of extensions, additions and betterments to applicant's plants and properties installed subsequent to April 30, 1923.

(2) Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted will become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,000. The authority to issue bonds will expire on December 1, 1923.

Dated at San Francisco, California, this fourteenth day of June, 1923.

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DECISION No. 12690.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER  
COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING AN  
INCREASE OF RATES.

Application No. 5585.

CITY OF SACRAMENTO

*vs.*

GREAT WESTERN POWER COMPANY.

Case No. 931.

## CITY OF OAKLAND

vs.

## GREAT WESTERN POWER COMPANY.

Case No. 1204.

C. E. MOEHRLE ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY AND GREAT WESTERN POWER  
COMPANY.

Case No. 1669.

Decided October 11, 1923.

*Chaffee E. Hall*, for Great Western Power Company.*Consumers in Protest.*

Patrick M. O'Donnell, 1763 Golden Gate avenue.  
C. F. Eldridge, representing A. Schilling & Co.  
W. B. Hill, 381 Hayes street, for Hayes Theater.  
Johanna Lipman, representing Lipman Brothers, Inc., 2797 Mission street.  
Mrs. H. Lowenbein, 2921 Washington street.  
Mrs. E. Jentzsch, 25 Camp street.  
Michael Geppart, 627 Hayes street.  
Edith Levy, representing Miller Floral Company, 430 Hayes street.  
I. Smith, 395 Hayes street.  
D. S. Prince, 315 Guerrero street.  
O. H. Swingley, representing Hayes Valley Electric Company, 477 Hayes  
street.  
Mrs. G. A. Randolph, 469 Hayes street.  
Theodore Rieker, 3506 Sixteenth street.  
P. E. Quevlionn, Ayres Apartment House.  
A. Aronson, Third and Mission streets, Aronson Building.  
O. P. Schmidt, representing Schmidt Building, 12 Geary street.  
E. P. Kahler, 38 Fourth street.  
W. D. Brown, 525 California street.  
E. M. Applegarth, representing Methodist Book Concern Building.  
Thomas E. Haven, representing Golden State and Miners Iron Works,  
249 First street.  
Chas. W. Smith, for the Building Owners and Managers Association.

SEAVEY, *Commissioner*.OPINION ON FIRST PETITION OF GREAT WESTERN POWER COMPANY  
OF CALIFORNIA FOR MODIFICATION OF ORDER.

Great Western Power Company of California petitions the Commission to modify its order made on the third day of January, 1923, designated as Decision No. 11466, to permit it to charge and collect from the electric consumers served by it, who were formerly served by Universal Electric and Gas Company, the schedule of rates fixed and established in and by said order.

For a number of years prior to 1922, Universal Electric and Gas Company was engaged in the business of purchasing, generating, producing, distributing and selling electric energy and steam heat in the

city and county of San Francisco. Early in 1922, Great Western Power Company of California purchased and acquired all the electric and steam business, franchises and property of Universal Electric and Gas Company. This purchase was under authority of the Commission's Decision No. 10379, dated April 27, 1922 (21 C. R. C. 641). In this decision the Commission held that there was not sufficient evidence before it to warrant a change in rates and ordered Great Western Power Company of California to continue in effect all of the rates then charged by Universal Electric and Gas Company until otherwise ordered.

The Commission, under date of January 3, 1923, issued its Decision No. 11466 in this proceeding, fixing just and reasonable rates for electric service on the Great Western Power Company's system, including that portion of the system inside the city and county of San Francisco, exclusive of the system formerly owned by Universal Electric and Gas Company. The rates fixed in that decision were substantially the same as those found reasonable on the electric system of Pacific Gas and Electric Company, which serves in competition with the Great Western Power Company in San Francisco. The rates found just and reasonable are, in general, considerably higher than the rates now in effect on that portion of the system purchased from the Universal Company.

The evidence indicates that the residences and places of business of the consumers formerly served by the Universal Company are interspersed with those of consumers of the Great Western Power Company and of the Pacific Gas and Electric Company. This Commission must conclude from the evidence in this proceeding that discrimination now exists between the consumers served from the former Universal System and the system of the Great Western Power Company on which rates have heretofore been fixed. Under the Public Utilities Act it is the duty of the Commission to eliminate such discrimination, which will involve either the reduction of the rates now in effect on the original system of Great Western Power Company, the increase in the rates on the Universal System, or change of both. After an exhaustive investigation into the operations of the Great Western Power Company of California, applicant herein, and the Pacific Gas and Electric Company, this Commission has found that the rates now charged to consumers other than those on the Universal System are just and reasonable. The evidence in this proceeding indicates that the return earned by Universal Electric and Gas Company prior to the transfer to the Great Western Power Company was below that which would be considered just and reasonable and under which a utility could indefinitely continue to operate, extend its system, and render adequate service. It also appears that the return which may be anticipated from the combined Great Western and Universal systems operating under the

present rates of Great Western Power Company will be no more than reasonable. It must be concluded, therefore, that the same rates should be reasonable as applied to electric service to those consumers served by the Great Western Power Company on the system purchased from the Universal Electric and Gas Company, although material increases in rates will result to individual consumers.

The special attention of the Commission is called to a contract entered into August 28, 1917, between the Universal Electric and Gas Company and A. Schilling and Company, for the supplying of electric energy at the consumer's premises at the corner of Second and Folsom streets in the city and county of San Francisco, and to a lease of the same date between A. Schilling and Company and the Universal Electric and Gas Company, whereby the latter leases certain engine room space in the building for the installation of electric conduits, switchboard and an electric substation, for the term of ten (10) years. The contract for power is at the regular schedule rates which were in effect at the time it was entered into and provides that:

It is understood by and between the parties hereto that this agreement is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the State of California and the compliance with any such lawful order by the company shall give no cause for action to the consumer.

The lease provides for a rental charge of \$80 per month for the occupancy of the engine room space required by the power company. An analysis of the evidence relative to this contract and lease, and the conditions surrounding the contract for service, does not justify the consideration of this as a special contract freeing A. Schilling and Company from paying the regular schedule for electric service as found just and reasonable by this Commission.

I recommend the following form of order:

#### ORDER.

Great Western Power Company of California having applied to the Railroad Commission for a modification of the Commission's Decision No. 11466 in the above entitled proceeding, as heretofore set forth, a public hearing having been held and the matter submitted and ready for decision, the Railroad Commission of the State of California finding as a fact that the rates now charged on the system of the Great Western Power Company purchased from the Universal Electric and Gas Company are unjust and unreasonable rates in so far as they differ from the rates fixed by this Commission in Decision No. 11466, dated January 3, 1923, as applicable to service within the city and county of San Francisco, and basing its order on the foregoing findings of fact and the findings of fact set forth in the opinion preceding this order;

*It is hereby ordered*, that Great Western Power Company of California be and it is hereby authorized to charge and collect for electric



service supplied from the system formerly owned by the Universal Electric and Gas Company the rates and charges as specified in Decision No. 11466, dated January 3, 1923, said rates to become effective for all regular meter readings taken on and after November 1, 1923.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eleventh day of October, 1923.

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MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

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AUTO STAGE APPLICATIONS.

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DISMISSALS.

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GRADE CROSSINGS.

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TABLE A—MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
11731	8702	Lonny E. Dean and Gertrude Dean	Authorized to sell telephone system to Lafe Harris et al.	Feb. 27, 1923
11732	4190	Wm. A. Herman	Supplemental order revoking Decision No. 5907	Feb. 27, 1923
		Power Company et al.	Petition for rehearing denied	Feb. 28, 1923
11733	1419	Tuolumne County vs. Sierra and San Francisco	Petition for rehearing denied	Feb. 28, 1923
		Power Company et al.	Petition for rehearing denied	Feb. 28, 1923
	A5572	Pacific Gas and Electric Company	Supplemental order authorizing execution of mortgage	Mar. 6, 1923
11747	8310	San Geronimo Power Company	To exchange certain lands	Mar. 8, 1923
11766	8704	Spring Valley Water Company	Authorized to execute a mortgage and issue bonds	Mar. 16, 1923
11804	7646	El Dorado Water Corporation	Supplemental order revoking Decision No. 4960	Mar. 16, 1923
11805	3160	C. M. Coping	Supplemental order authorizing discontinuance of gas service	Mar. 16, 1923
11806	5062	Rochester Oil Company	Supplemental order authorizing the issue of bonds	Mar. 16, 1923
11807	7977	Bakersfield Water Works	Approval of agreement—joint operation of trucks	Mar. 17, 1923
11812	8805	Glendale and Montrose Railway and Los Angeles and Salt Lake Railroad Company	Supplemental order amending Decision No. 11726	Mar. 19, 1923
11817	8692	Southern Pacific Company	Supplemental order modifying Decision No. 10298	Mar. 21, 1923
11820	7691	Southern California Edison Company	Supplemental order modifying Decision No. 7057	Mar. 21, 1923
11821	5207	San Joaquin Light and Power Corporation	Supplemental order modifying Decision No. 11037	Mar. 21, 1923
11822	8271	Southern California Gas Company	Supplemental order modifying Decision No. 11038	Mar. 22, 1923
11823	8272	Midland Counties Public Service Corporation	Modifying Decision No. 7708 to increase rates	Mar. 22, 1923
11830	5550	Santa Maria Gas Company	Petition for modification of prior order denied	Mar. 24, 1923
11831	5098	City of Bakersfield	Petition for rehearing denied	Mar. 24, 1923
	C1397	William Wax et al. vs. Sierra and San Francisco Power	Petition for rehearing denied	Mar. 24, 1923
11834	C1419	Tuolumne County vs. Sierra and San Francisco Power	Petition for rehearing denied	Mar. 24, 1923
	5572	Pacific Gas and Electric Company	Petition for rehearing increase of rates denied	Mar. 24, 1923
11848	4922	Louis E. Smith	Supplemental order revoking Decision No. 4922 granting certificate of public convenience and necessity	Mar. 29, 1923
11849	5929	Frank Reanier	Supplemental order amending Decision No. 8002 to operate auto service	Mar. 29, 1923
	8492	Madera Yosemite Big Trees Auto Company	Supplemental order revoking Decision No. 11763 to extend time of operation	Mar. 29, 1923
11850	7808	The California Oregon Power Company	Supplemental order authorizing use of additional stock proceeds to cover cost of construction	Mar. 30, 1923
11858	8184	The California Oregon Power Company	Supplemental order revoking Decision No. 5495 auto service	Mar. 30, 1923
	8457	The California Oregon Power Company	Petition for rehearing denied	Mar. 30, 1923
11859	3504	John A. Holmes	Petition for rehearing raise in rates denied	Mar. 30, 1923
	C1580	City of Benicia vs. Benicia Water Company	Supplemental order modifying Decision No. 11839	Mar. 30, 1923
11861	6850	Benicia Water Company	Supplemental order revoking operative right granted in Decision No. 7787	Mar. 30, 1923
11863	8381	Pacific Electric Land Company		Mar. 30, 1923
11877	5684	Orville Elias Squier		April 2, 1923

11881	7465	San Joaquin Light and Power Corporation.....	Supplemental order authorizing use of proceeds from sale of stock.....	April 2, 1923
11888	7715	San Joaquin Light and Power Corporation.....	Supplemental order authorizing use of proceeds from sale of bonds.....	April 2, 1923
11889	8555	Palermo Land and Water Company.....	Authorizing sale of water system to F. Ford et al.....	April 4, 1923
	C1698	Railroad Commission, Investigation of.....	Investigation on Commission's own motion into compliance with the requirements of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—San Joaquin Light and Power Corporation.....	April 4, 1923
11890	C1698	Railroad Commission, Investigation of.....	Investigation on the Commission's own motion into compliance with the requirements of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—Santa Cruz County Utilities.....	April 4, 1923
11894	C1790	G. A. Schlageter, Mariposa Auto Stage Company vs. Madera Yosemite Big Trees Auto Company.....	Petition for rehearing denied.....	April 4, 1923
11915	8521	Northwestern Redwood Company, Willits Water and Power Company and Central Mendocino County Power Company.....	Supplemental order authorizing sale of certain water systems.....	April 6, 1923
11918	8884	L. V. Treaskis.....	Authorized to sell water system to Ida M. Dempsey.....	April 13, 1923
11919	8272	Midland Counties Public Service Corporation.....	Supplemental order authorizing use of proceeds from sale of bonds.....	April 13, 1923
11920	5550	Santa Maria Gas Company.....	Supplemental order authorizing use of part of proceeds from sale of notes.....	April 13, 1923
11924	7275	Olai Power Company.....	Supplemental order granting extension of time to issue stock.....	April 13, 1923
11925	C1683	City of Reddy vs. Archison, Topeka and Santa Fe.....	Order extending time in Decision No. 11418.....	April 13, 1923
11947	8778	Marteca Telephone Company.....	Supplemental order authorizing the execution of a deed of trust.....	April 20, 1923
11948	6923	San Fernando Telephone and Telegraph Company.....	Supplemental order granting extension of time to issue stock.....	April 20, 1923
11950	C1698	Railroad Commission, Investigation of.....	Extension of time to comply with requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915. The Capitola Company.....	April 20, 1923
11975	7109	G. A. Light, D. C. Wixon and H. W. and V. Lambert.....	Supplemental order revoking operative right of H. W. and V. Lambert.....	April 25, 1923
11976	8797	R. Michael.....	Supplemental order correcting error in Decision No. 11637.....	April 25, 1923
11978	8435	San Francisco-San Jose Fruit and Produce.....	Supplemental order revoking operative rights.....	April 27, 1923
11982	5995	M. L. Booth.....	Extension of time to comply with requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915. The Capitola Company.....	April 27, 1923
11998	C1698	Railroad Commission, Investigation of.....	Petition for rehearing denied.....	May 2, 1923
12008	C1670	City of San Diego vs. The Pacific Telephone and Telegraph Company.....	Petition for rehearing denied.....	May 2, 1923
	C1677	City of National City vs. The Pacific Telephone and Telegraph Company.....	Petition for rehearing denied.....	May 2, 1923
	C1678	City of Chula Vista vs. The Pacific Telephone and Telegraph Company.....	Petition for rehearing denied.....	May 2, 1923
12012	7616	J. A. Smith.....	Supplemental order granting extension of service.....	May 2, 1923
12028	8961	Hermosa-Redondo Water Company.....	Authorized to issue and sell stock.....	May 3, 1923
12030	6997	Mrs. G. Guerra, Cambria Telephone Company.....	Supplemental order authorizing increase of rates.....	May 3, 1923
12031	8704	Spring Valley Water Company.....	Supplemental order authorizing transfer of certain lands.....	May 3, 1923
12034	8065	W. E. White and C. C. White.....	Authorized to transfer water system.....	May 4, 1923
12039	8231	Laton Water Company.....	Supplemental order correcting typographical error made in Decision No. 11727.....	May 4, 1923
12042	3949	Southern California Edison Company.....	Petition for rehearing dismissed.....	May 5, 1923
12053	C1698	Railroad Commission, Investigation of.....	Extension of time to comply with requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915. San Francisco-Oakland Terminal Railways.....	May 5, 1923
12054	7757	Northwestern Pacific Railroad Company.....	Order revoking prior order and dismissing application re grade crossing.....	May 8, 1923
12059	7524	Wm. Allen.....	Supplemental order revoking operative right auto stage line.....	May 8, 1923
12074	8999	William Jessen, Olive L. Jessen and Cordelia Bugbee.....	Authorized to transfer water system.....	May 12, 1923
12083	6522	Reuel N. Wright and Nathan S. Lockwood.....	Supplemental order revoking operative right.....	May 15, 1923
12084	4195	W. Wert Tong.....	Supplemental order revoking operative right granted in Decision No. 5949.....	May 15, 1923
12104	5230	Nevada County Narrow Gauge Railroad Company.....	Supplemental order granting extension of time in which to issue and sell bonds.....	May 18, 1923



12250	C1698	Railroad Commission, Investigation of	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Central California Traction Company.	June 23, 1923
12269	C1880	Railroad Commission, Investigation of	Petition for rehearing denied (C. D. Rasmussen and Fred Ludakins).	June 25, 1923
12271	8442	North Moneta Garden Lands Water Company.		
12271	C1750	N. H. Bergeren vs. North Moneta Garden Lands Water Company.		
12276	8332	The Southern Terminal Warehousing and Storage Corporation.	Supplemental order authorizing increase in rates.	June 25, 1923
12287	8331	Western States Gas and Electric Company.	Supplemental order authorizing use of seventeen and one-half per cent of proceeds from sale of stock.	June 26, 1923
12288	3708	City of Palo Alto.	Supplemental order amending Decision No. 11123.	June 28, 1923
12290	C1902	Railroad Commission, Investigation of	Supplemental order granting extension of time construction of grade crossing.	June 28, 1923
12291	8387	Henry T. Campbell and H. W. Regan et al.	Petition for rehearing denied (Frederick Ernesting, O. D. Hadley, E. C. Willis, J. O. Moore, Frank Hawk, W. H. Undergraff, J. O. McClung and C. C. Willis).	June 28, 1923
12296	4192	Kings River Stage and Transportation Company.	Supplemental order relative to compliance with the Commission's findings.	June 28, 1923
12317	7867	Trueman E. Rigney.	Supplemental order amending Decision No. 12129.	June 29, 1923
12318	6491	L. L. Smith and Frank Grant.	Supplemental order revoking certificate granted under Decision No. 7075.	July 3, 1923
12319	8963	Edward Serretto and Louis A. Mattel and E. Michel.	Supplemental order correcting error made in Decision No. 8868.	July 3, 1923
12320	4227	Walter Hunaeus.	Supplemental order approving change in freight and express rates.	July 3, 1923
12327	7895	Consolidated Water Company of Pomona.	Supplemental order revoking Decision No. 5970.	July 3, 1923
12333	8762	Scott Rutherford.	Supplemental order authorizing loan of \$20,000.	July 6, 1923
12351	8911	City of Beverly Hills.	Supplemental order granting extension of time.	July 10, 1923
12352	9068	Alvah H. Mitchell.	Supplemental order amending Decision No. 12284.	July 13, 1923
12353	8232	San Jose Light and Power Corporation.	Second supplemental order revoking issue of bonds.	July 13, 1923
12354	C1698	Railroad Commission, Investigation of	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Los Angeles Railway Corporation.	July 13, 1923
12355	C1698	Railroad Commission, Investigation of	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—City of Burbank.	July 13, 1923
12361	5159	County of Sacramento.	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—City of Glendale.	July 13, 1923
12363	9196	El Pismo Water Company.	Petition for modification of prior order re grade crossing—City of Glendale.	July 17, 1923
12367	9198	R. B. Young "Girly Electric Company."	Partnership authorized to sell water system to W. Ward.	July 17, 1923
12369	8621	Northwestern Redwood Company, Willis Water and Power Company and Central Mendocino County Power Company.	Authorizing mortgage, for purpose of obtaining funds to cover cost of new equipment.	July 17, 1923
12371	7654	Russian River Water Company.	Supplemental order modifying Decision No. 11543.	July 17, 1923
12372	8272	Midland Counties Public Service Corporation.	Supplemental order modifying Decision No. 10354.	July 18, 1923
12373	5550	Santa Maria Gas Company.	Supplemental order authorizing use of part of proceeds from sale of bonds.	July 18, 1923
12375	8618	Pacific Electric Railway Company.	Amending Decision No. 12275 re grade crossings.	July 20, 1923
12378	8832	Campbell Water Company.	Supplemental order modifying order in Decision No. 11933.	July 20, 1923
12379	9111	Southern California Gas Company.	Supplemental order authorizing use of proceeds from sale of bonds.	July 20, 1923
12379	1970	Alturas Electric Power Company.	Supplemental order modifying former order so as to permit the sale of \$29,000 bonds.	July 20, 1923
12380	7147	Sacramento Northern Railroad, Sacramento Northern Railway and the Western Pacific Railroad Company.		
12381			Supplemental order amending Decision No. 9620.	July 20, 1923



TABLE A—MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
12383	C1865	City of Huntington Beach vs. Huntington Beach Telephone Company, The Pacific Telephone and Telegraph Company and United States Long Distance Telephone and Telegraph Company	Opinion and order denying complainant's request	July 21, 1923
12384	C1720	William J. O'Rourke, Ada B. O'Rourke, Oscar W. Wright, Ethel J. Wright, and Leo H. Smith vs. Haines Canyon Water Company	Order vacating prior order	July 20, 1923
12387	7990	Central Mendocino County Power Company	Supplemental order authorizing issue and sale of bonds	July 23, 1923
12388	C1698	Railroad Commission, Investigation of	Time extended so as to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Ojai Power Company	July 24, 1923
12389	C1698	Railroad Commission, Investigation of	Time extended so as to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Market Street Railway Company	July 24, 1923
12402	9144	Mt. Shasta Land and Irrigation Company	Authorizing the transfer of water system to Granada Water Company	July 27, 1923
12405	9245	Cragmont Land Company and Ferrier-Brook Development Company	Approving transfer of water system to East Bay Water Company	July 27, 1923
12407	9257	Co-Operative Land Company	Authorizing sale of Winton Water Works to Winton Hall Incorporation	July 27, 1923
12408	C1684 C1763	W. P. Fuller and Company vs. Southern Pacific Co.	Petition for reopening of the cases for rehearing denied	July 27, 1923
12409	7772	Charles J. Knox and Bartlett L. Knox	Supplemental order revoking certificates of public convenience and necessity	July 27, 1923
12410	8138	Alva L. Clement and F. H. Griffin	Supplemental order revoking certificates of public convenience and necessity	July 27, 1923
12416	8331	Frank H. Griffin and Paul Clement	Supplemental order amending Decision No. 11123	July 27, 1923
12426	8272	Western States Gas and Electric Company	Supplemental order modifying Decision No. 11038	July 30, 1923
12429	3610	Midland Counties Public Service Company	Supplemental order revoking operative right granted in Decision No. 11954	Aug. 2, 1923
12431	8749	Thos. B. Riley	Supplemental order revoking operative right granted in Decision No. 11954	Aug. 2, 1923
12431	9013	John Simon	Supplemental order revoking operative right granted in Decision No. 12101	Aug. 2, 1923
12432	C1870	City of Bakersfield vs. The Atchison, Topeka and Santa Fe Railway Company	Petition for rehearing denied	Aug. 2, 1923
12449	C1745	Railroad Commission, Investigation of	Petition for rehearing denied (Pacific States Express)	Aug. 2, 1923
12452	9153	W. C. Ribenack	Authorizing the transfer to Smith River Power Company water system known as the Anthony Water System	Aug. 6, 1923
12456	9278	Southwestern Home Telephone Company	Approving the issue of note in the amount of \$2,000	Aug. 6, 1923
12457	C1698	Railroad Commission, Investigation of	Extension of time so as to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Midland Counties Public Service Corporation	Aug. 6, 1923
12458	C1698	Railroad Commission, Investigation of	Extension of time so as to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Bay Point Light and Power Company	Aug. 6, 1923
12459	8957	R. H. McAllister and J. B. Cheshier	Authorizing the operation of a water system under a franchise	Aug. 6, 1923
12465	C1698	Railroad Commission, Investigation of	Extension of time so as to comply with the requirements of Chapter 499, Statutes of 1911 as amended by Chapter 600, Statutes of 1915—Coast Valleys Gas and Electric Company	Aug. 6, 1923
				Aug. 7, 1923

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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12470	8626	Mary M. Redgrave and Russell O. Douglas.	Petition for rehearing denied re passenger stage service.	Aug. 11, 1923
12478	9302	Title Insurance and Trust Company and Elias V. Rosenkranz, executors of the estate of Emil Firth, deceased.		
12480	8962	Sequoia National Park Stage Company.	Authorized to transfer to W. T. Estep public utility water system.	Aug. 14, 1923
12486	8301	Pasadena Transfer and Storage Company.	Supplemental order authorizing increase in service.	Aug. 14, 1923
12487	8331	Western States Gas and Electric Company.	Order made modifying and amending Decision No. 11422.	Aug. 14, 1923
12489	9307	Venice Consumers Water Company.	Supplemental order amending Decision No. 11123.	Aug. 14, 1923
12490	9306	Venice Consumers Water Company.	Authorizing the purchase of water system known as Venice-of-America Water Company.	Aug. 14, 1923
12492	6929	E. B. Stevenson and United Stages, Incorporated.	Supplemental order revoking Decision No. 9165.	Aug. 14, 1923
12493	6879	E. J. Keves.	Supplemental order revoking certificate, auto service Jackson and Silver Lake.	Aug. 15, 1923
12498	9206	Thomas B. Riley.	Supplemental order amending Decision No. 12462.	Aug. 15, 1923
12500	8845	John W. Martin.	Supplemental order amending Decision No. 12108.	Aug. 17, 1923
12501	8924	Southern Pacific Company.	Supplemental order amending Decision No. 12112, grade crossing.	Aug. 17, 1923
12507	9180	Harry Lee Martin.	To acquire and construct telephone system vicinity of Arrowhead Woods (preliminary order).	Aug. 17, 1923
12509	9126	Rodeo-Vallejo Ferry Company.	Stipulation approving wharf franchise.	Aug. 21, 1923
12515	8467	F. A. Bennett and L. C. Faus.	To operate freight service, Los Angeles-Los Angeles Harbor (Supplemental order).	Aug. 21, 1923
12516	9111	Southern California Gas Company.	Supplemental order authorizing use of proceeds from sale of bonds.	Aug. 21, 1923
12517	9240	Grangers Business Association.	Approving franchise for a construction of wharf.	Aug. 21, 1923
12538	9046	Pacific Gas and Electric Company.	Approving agreement made with The Regents of the University of California.	Aug. 23, 1923
12540	9303	California Oregon Power Company.	Authorizing sale of one-third interest in pole line in Lane County, Oregon.	Aug. 23, 1923
12541	9202	Conservative Water Company.	Supplemental order authorizing execution of a mortgage.	Aug. 23, 1923
12542	C1793	Richfield Oil Company vs. Sunset Railway Company.	Supplemental order to fix rates.	Aug. 23, 1923
12548	C1698	Railroad Commission, Investigation of.	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915. (Union Traction Company).	Aug. 24, 1923
12557	9272	Venice Consumers Water Company.	To issue stock.	Aug. 25, 1923
12558	7275	Qjai Power Company.	Supplemental order to use proceeds from sale of stock.	Aug. 29, 1923
12559	C1362	Postal Telegraph-Cable Company vs. Pacific Gas and Electric Company.	Supplemental order authorizing reopening of case.	Aug. 29, 1923
12560	C1935	J. E. Sprague vs. Pacific Telephone and Telegraph Company.	Case ordered dismissed.	Aug. 29, 1923
12562	8593	Southern Pacific Company.	Order revoking prior order and dismissing application.	Aug. 30, 1923
12563	9296	West Anaheim Water Company.	Authorizing abandonment of water service.	Aug. 30, 1923
12564	7627	H. P. Harralson.	Supplemental order authorizing modifications in toll service rate.	Sept. 1, 1923
12565	7694	Reedley Telephone Company.	Supplemental order authorizing modifications in toll service rate.	Sept. 1, 1923
12571	C1698	Railroad Commission, Investigation of.	Extension of time to comply with the requirements of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915. (Pacific Gas and Electric Company).	Sept. 1, 1923
12572	6992	Frank C. Lloyd.	Supplemental order revoking Decision No. 9537, auto stage line Santa Maria-Taft.	Sept. 4, 1923
12573	3977	A. C. Loeey.	Supplemental order revoking auto stage certificate.	Sept. 4, 1923
12575	9241	Pacific Gas and Electric Company.	To exercise the right, privilege and franchise granted by Board of Supervisors of Sutter County.	Sept. 4, 1923
12578	7913	Los Angeles and Salt Lake Railroad Company.	Order revoking prior order and dismissing application, grade crossing.	Sept. 4, 1923
12586	9224	Sierra Transit Company.	Supplemental order modifying Decision No. 12552 to correct error made in name.	Sept. 6, 1923
12587	8803	Southern California Warehouse and Distributing Company and Pacific-Southwest Warehouse Company.	Supplemental order authorizing the issuance of additional stock.	Sept. 7, 1923



TABLE A—MISCELLANEOUS AND SUPPLEMENTAL ORDERS—Concluded.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
12590	8050	Thomas J. Rourke and Ella M. Rourke	To discontinue water service vicinity of Azusa, Los Angeles County	Sept. 11, 1923
12598	C1795	Claude F. Riley vs. P. H. Rison	Unlawful operation auto stage line—St. Helena-Walters Springs	Sept. 13, 1923
12601	8215	Southern Pacific Company	Order of Rescission and Dismissal, grade crossings City of Vernon	Sept. 13, 1923
12600	8506	Ventura Transportation Company	Supplemental order authorizing abandonment of auto service—Ventura-Foster Park	Sept. 13, 1923
12639	8762	Scott Rutherford et al.	Supplemental order authorizing extension of time	Sept. 20, 1923
12640	9130	Pacific Telephone and Telegraph Company	To exercise the rights and privileges granted under franchise by the Board of Trustees of Gustine	Sept. 20, 1923
12658	C1698	Railroad Commission, Investigation of	Investigation on the Commission's own motion into compliance with the require- ments of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—Ontario Power Company	Sept. 24, 1923
12661	9188	Pacific Electric Railway Company	Supplemental order approving extension of wharf franchise	Sept. 27, 1923
12662	C1698	Railroad Commission, Investigation of	Investigation on the Commission's own motion into compliance with the require- ments of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—The Bear Valley Utility Company	Sept. 27, 1923
12663	C1698	Railroad Commission, Investigation of	Investigation on the Commission's own motion into compliance with the require- ments of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—Great Western Power Company	Sept. 27, 1923
12664	C1698	Railroad Commission, Investigation of	Investigation on the Commission's own motion into compliance with the require- ments of Chapter 499, Statutes of 1911, as amended by Chapter 600, Statutes of 1915—Coast Counties Gas and Electric Company	Sept. 27, 1923
12671	6707	James A. Murray et al.	Order denying rehearing and affirming prior order re surcharge	Oct. 1, 1923
12672	8451 8925 C1909	Ocean Park Heights Land and Water Company Railroad Commission, Investigation of	Supplemental order establishing schedule of rates	Oct. 1, 1923
12673	9368	Pacific Gas and Electric Company	Investigation on Commission's own motion into rates, rules, etc. of Ocean Park Heights Land and Water Company	Oct. 1, 1923
12677	8272	Midland Counties Public Service Corporation	To approve agreement entered into with the Columbia Steel Corporation	Oct. 1, 1923
12686	5027	Santa Monica Bay Home Telephone Company	Supplemental order authorizing use of proceeds from sale of bonds	Oct. 2, 1923
12687	8272	Midland Counties Public Service Corporation	Supplemental order to cancel escrow agreement	Oct. 10, 1923
12688	8150	Southern Pacific Company	Supplemental order authorizing use of proceeds from sale of bonds	Oct. 10, 1923
12702	9403	Clara E. Coffee	Order revoking prior order in Decision No. 10863 to construct spur track	Oct. 10, 1923
12704	9413	Charles M. Howard and Howard Jones and Madge Jones	To sell Glen Arbor Water System to R. L. Young	Oct. 13, 1923
12705	9439	Western Pacific Railroad Company	To transfer and convey water plant to Howard Jones and Madge Jones	Oct. 13, 1923
12706	9210	Peerless Stages, Incorporated	Authority to enter into agreement with Spring Valley Water Company	Oct. 13, 1923
12707	C1785	Los Angeles Gas and Electric Corporat on vs. Southern California Gas Company	To execute mortgage and approval of agreement	Oct. 13, 1923
12717	5101	Southern California Edison Company	To extend its lines and service north of Manchester or west of Cypress Avenue, City of Inglewood	Oct. 13, 1923
			Order denying modification of Commission's original decision	Oct. 16, 1923

TABLE B—AUTO STAGE APPLICATIONS.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
11718	7471	E. C. Dunnivant and Harry J. McClean	To operate passenger bus line, Venice and Los Angeles	Denied	Feb. 24, 1923
11729	8714	S. S. Summers and Son	To operate passenger and freight line, Burney and Cayton via Pit 3	Granted	Feb. 27, 1923
11738	8717	F. E. Hoyt and Bert Myers	Former to sell to latter passenger and freight line, Paso Robles and Klamath	Granted	Mar. 1, 1923
11745	8747	Louis Sposito and Oscar Schneider et al.	Former to sell and transfer to latter auto franchise, Sacramento and Auburn	Granted	Mar. 3, 1923
11752	8750	John B. Connor and W. J. Leavitt	Former to sell to latter passenger and freight line, Lewiston and Minersville	Granted	Mar. 6, 1923
11758	8298	L. C. Hall	To operate passenger and freight line, Chico and Willows	Granted	Mar. 6, 1923
11759	8352	Geo. B. Long	To operate stage service, Susanville and Wendel	Granted	Mar. 6, 1923
11780	8301	Pasadena Transfer and Storage Company	To operate freight, express and baggage service, Pasadena and Los Angeles, petition for rehearing	Granted	Mar. 13, 1923
11781	8435	San Francisco-San Jose Fruit and Produce Transfer Company	To operate truck line, Redwood City and Oakland, petition for rehearing	Denied	Mar. 13, 1923
11783	8608	F. W. Granger	To operate freight line, Crestmore and Los Angeles	Denied	Mar. 14, 1923
11787	8631	P. W. Dongan, et al. "Santa Rosa, Petaluma, Sausalito Auto Stage Company"	To operate stage line, Cotati and Sebastopol	Denied	Mar. 16, 1923
11792	7579	K. F. Beyerle "Murrietta Valley Motor Freight Line"	To extend present service to the Town of Corona, petition for rehearing filed by Atchison, Topcka and Santa Fe Railway	Denied	Mar. 16, 1923
11793	8748	Gordon Quimby and Alfred Smith	To operate passenger stage line, Dalton's Ranch and Susanville	Denied	Mar. 16, 1923
11794	8756	J. R. Tedrick	To abandon passenger stage service, Whittier and Coyote Oil Wells	Granted	Mar. 16, 1923
11795	8762	Scott Rutherford	To operate truck service, Lakeport and Hopland	Granted	Mar. 16, 1923
11796	8767	F. H. Hanson and H. Gorman	Former to sell to latter express and passenger line, Santa Maria and Guadalupe	Granted	Mar. 16, 1923
11797	8771	Arthur E. Palmer and Earle E. Miller	Former to sell latter truck line, Sacramento and Elk Grove and Galt	Granted	Mar. 16, 1923
11798	8790	Martin and Rosebrook and Clarence McKenzie	Former to lease to latter passenger stage line, Chico and Hamilton City	Granted	Mar. 16, 1923
11799	8730	G. R. Akins	To operate freight, express and passenger line, Spenceville and Wheatland	Granted	Mar. 16, 1923
11800	8775	F. M. Todd and Thomas E. Riley et al.	Former to sell to latter passenger line, Ukiah and Willits	Granted	Mar. 16, 1923
11801	8776	J. D. West	To operate passenger, express and freight line, Burney and Cayton	Denied	Mar. 16, 1923
11803	8779	Pat Silvestri and Nick Buinda	Former to sell to latter freight line, San Francisco and San Jose and Martinez and San Francisco	Granted	Mar. 16, 1923
11810	8510	Mexico Stage Company	To operate passenger service, San Diego and Tia Juana, rehearing	Denied	Mar. 16, 1923
11826	8388	Skov Truck Line	To establish new time and tariff schedules	Denied	Mar. 22, 1923
11841	8768	K. F. Beyerle "Murrietta Valley Motor Freight Line" and Pickwick Stages	Former to sell to latter operative right, Los Angeles and Temecula	Granted	Mar. 29, 1923
11842	8791	H. E. Schuricht and Wm. F. Boehert	Former to sell to latter truck freight line, Los Angeles and Manhattan	Granted	Mar. 29, 1923
11843	8798	C. F. Whipple	To operate passenger, express and freight line, Sonoma and Cow Creek	Granted	Mar. 29, 1923
11844	8808	L. C. Hall and R. E. Riley	Former to sell to latter freight line, Chico and Willows	Granted	Mar. 29, 1923
11847	8828	C. A. Ware and F. B. McCarthy	Former to sell to latter truck line, Brawley and Westmoreland	Granted	Mar. 29, 1923
11847	8835	Louis Giambastiani and Fiore Giambastiani	Former to sell to latter interest in passenger and freight line, Pt. Reyes Station and Inverness	Granted	Mar. 29, 1923
11852	8818	Wm. A. Goetze and C. W. Bremer	Former to sell to latter stage line, Weaverville and Helena	Granted	Mar. 29, 1923

TABLE B—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
11853	8847	Sam Newton and M. W. Ayers.	To transfer operative rights motor truck service, San Francisco and Gilroy.	Granted	Mar. 29, 1923
11857	8720	James G. Shaw and Gilbert R. Beard.	To readjust freight tariff.	Granted	Mar. 30, 1923
11862	7616	J. A. Smith.	To operate stage service, Harbor City and San Pedro.	Granted	Mar. 30, 1923
11864	8450	Emil J. Kleinsmith.	To operate passenger line, Santa Monica and Los Flores Canyon.	Granted	Mar. 30, 1923
11865	8536	R. A. Anderson.	To operate truck line, Chino and Los Angeles.	Denied	Mar. 30, 1923
11866	8583	A. E. Mallett and Gene Antichi "Sacramento-Corn- ing Freight Line".			
11867	8607	H. L. Boutell et al and R. M. Davis et al.	To operate truck line, Sacramento and Willows.	Denied	Mar. 30, 1923
11869	8650	Jacob J. Reppert.	To operate freight, express and baggage service, Stonyford and Mecca.	Denied	Mar. 30, 1923
11875	8858	A. J. Happe.	To operate truck service, Redlands and Los Angeles Harbor.	Denied	Mar. 31, 1923
11882	8494	N. A. Webb et al. "Pasadena-Ocean Park Stage Line".	To establish certain changes in rates.	Granted	Mar. 31, 1923
11884	8713	Andrew Castro.	To operate bus service, Castroville and Monterey.	Denied	April 2, 1923
11885	8349	C. A. Schlageter et al. "Mariposa Auto Stage Co."	To operate stage passenger service, Merced and Yosemite Valley, petition for rehearing.	Granted	April 2, 1923
11892	8668	C. S. Sirvain.	To operate passenger, freight, express and baggage service, Sacramento and Jackson.	Denied	April 2, 1923
11898	8840	Harland O. Martin and J. F. Douglas.	Former to sell to latter passenger and freight line, Oroville and Swayne's Logging Camp.	Denied	April 4, 1923
11899	8841	Geo. F. Thompson and W. S. Charlton.	Former to sell to latter stage line, Jolon and King City.	Granted	April 5, 1923
11900	8861	Crabb, Morgan and Crabb and Allen and Reese.	Former to sell to latter stage business, Fresno and Del Rey.	Granted	April 5, 1923
11902	8867	H. A. Reed and Gus Peterson.	Former to sell to latter equipment and operative rights auto stage line, Arcata and Pon Bar.	Granted	April 5, 1923
11903	8856	Geo. A. Scott and Louis E. Smith et al.	Former to purchase from latter franchise and auto stage line, Susanville and Doyle.	Granted	April 5, 1923
11904	8839	Theo. Peters and Fred Pettit.	Former to sell to latter freight line, Stockton-Gustine.	Granted	April 5, 1923
11905	8846	E. P. Tallon and F. J. Stanley.	Former to sell to latter one-half interest truck line, Compton and Los Angeles.	Granted	April 5, 1923
11906	8849	W. W. Allen et al. and Coast Line Stages, Inc.	Former to sell to latter passenger and freight line, Fort Bragg and Caz- adero.	Granted	April 5, 1923
11908	8707	R. Michael.	To operate passenger auto stage service, San Pedro and White Point Mineral Hot Springs.	Granted	April 5, 1923
11909	8857	C. W. Bremer.	To operate passenger and freight service, Wenoverville and Big Bar.	Granted	April 6, 1923
11912	8563	R. B. Cregar and Samuel K. Clark et al.	Former to lease to latter stage line, Riverside and San Jacinto.	Granted	April 6, 1923
11913	8336	A. E. Donovan "Redondo Transfer and Storage Company".			
11914	8872	Davide Drake.	To operate freight, express and baggage service, Long Beach and Santa Monica.	Granted	April 6, 1923
11928	8622	A. C. Tidwell.	To operate passenger and freight service, Blue Nose and Happy Camp.	Granted	April 6, 1923
11932	7082	California Transit Company.	To operate passenger, freight, express and baggage service, Los Angeles and Santa Monica.	Granted	April 13, 1923
11954	8746	John Simon.	To operate passenger service, Pasadena and Garvey Road.	Denied	April 13, 1923
11955	8705	H. H. H.	To extend service, Pasadena and Monrovia.	Granted	April 24, 1923
11956	8881	F. E. and J. C. Orvis and Allan A. Hardie.	Former to sell to latter freight line, Los Angeles and West Gate.	Granted	April 24, 1923
11957	8882	H. V. Hull and A. Pastoria.	Former to sell to latter freight line, San Francisco and East Bay points.	Granted	April 24, 1923
11958	8883	Peerless Stages, Inc. and Harry Gaeta et al.	To issue stock and for approval of agreement.	Denied	April 24, 1923

11959	Justin R. Reed and Roy L. Smith.	8888	Former to sell to latter freight line, Middletown and Calistoga.	Granted	April 24, 1923
11960	M. W. Ayers and James Bell et al.	8892	Former to transfer to latter freight line, San Francisco and Gilroy.	Granted	April 24, 1923
11961	Morris H. Frederick and J. L. Fulton et al.	8912	Former to transfer to latter freight line, Sacramento and Lincoln.	Granted	April 24, 1923
11962	F. Giambastiani and B. C. Schreiber et al.	8932	Former to sell to latter freight line, Point Reyes Station and Inverness.	Granted	April 24, 1923
11963	Raymond F. Kamp	8834	To operate stage service, Mojave and Lone Pine.	Granted	April 25, 1923
11967	Earl F. Blubaugh	8853	To operate freight service, Los Angeles and McKittick.	Granted	April 25, 1923
11971	R. M. Davis and H. E. Smith.	8928	To operate freight service, San Bernardino and Beaumont, Whitewater and Indio.	Granted	April 25, 1923
11972	Frank A. Wood	8936	To operate passenger stage, Wheatland and Rio Oso.	Granted	April 27, 1923
11973	Charles A. House	8938	To operate freight, passenger and mail service, Redding and Knob.	Granted	April 27, 1923
11981	Carroll Harrington and C. E. Ross	8954	Former to sell to latter stage line, Red Bluff and Eureka.	Granted	April 27, 1923
11984	Albertson, Hudson and Hudson "Union Transfer Company of Long Beach"	8958	To abandon service, Long Beach and Los Angeles.	Granted	April 27, 1923
11994	E. J. Crawford	8953	To operate freight and express service, Boulder Creek and California Redwood Park.	Granted	April 27, 1923
11996	E. L. Goslaw	8964	To operate passenger service, Boulder Creek and State Redwood Park.	Granted	April 27, 1923
11997	E. L. Haley	8766	To operate freight and baggage service, San Diego and Julian.	Granted	April 27, 1923
12002	Daggett and Moore	12013	To operate passenger and freight service, Hornbrook and Copco.	Granted	May 3, 1923
12013	Alexander Bridge	12014	To operate passenger service, Home Gardens and Walnut Park.	Granted	May 3, 1923
12015	Harry D. Riley and A. B. Scott et al.	8829	Former to sell to latter passenger line, City of Anaheim.	Granted	May 3, 1923
12016	Pickwick Stages, Inc.	12019	To extend service from Julian to Descanso.	Granted	May 3, 1923
12019	Chester F. Musie	8844	To operate passenger and freight line, Lincoln Street and La Vina Sanitarium.	Granted	May 3, 1923
12024	James H. Little and C. H. King	8950	Former to sell to latter freight and express line, Glendale and Los Angeles.	Granted	May 3, 1923
12025	Richard Morrissey, Jr.	8811	To operate passenger and freight service, Hornitos and Merced Falls.	Granted	May 3, 1923
12026	C. C. Rhodes and F. H. Mountford	12027	To operate passenger service, Los Angeles and Trona.	Granted	May 3, 1923
12027	W. T. Hudson and L. C. Hudson and J. I. Githens.	8959	To transfer operative right to a co-partnership.	Granted	May 3, 1923
12029	J. F. Bickford	8864	To operate passenger, freight service, Elk Creek and Alder Springs.	Granted	May 3, 1923
12048	Edward Serretto et al. "Coastside Transportation Company"	8949	To operate truck line, Half Moon Bay and San Mateo.	Granted	May 8, 1923
12052	James G. Shaw et al. "Service Motor Transportation Company" and F. Hennessey et al.	8972	Former to sell to latter freight line, Half Moon Bay and San Mateo.	Granted	May 8, 1923
12057	James G. Shaw et al. "Service Motor Transportation Company" and F. Hennessey et al.	8972	Former to sell to latter freight line, Half Moon Bay and San Mateo.	Granted	May 8, 1923
12058	James G. Shaw et al. "Service Motor Transportation Company" and F. Hennessey et al.	8972	Former to sell to latter freight line, Half Moon Bay and San Mateo.	Granted	May 8, 1923
12061	Frost and Frost Trucking Company	8871	To operate freight service, Banning and San Pedro, rehearing.	Granted	May 8, 1923
12063	L. F. Jennings "Jennings Auto Stages"	8886	To operate passenger, express and baggage service, Lompoc and Buclton.	Granted	May 8, 1923
12065	L. F. Jennings "Jennings Auto Stages"	8121	To operate auto stage service, Santa Barbara and Santa Maria.	Granted	May 9, 1923
12065	L. F. Jennings "Jennings Auto Stages"	8122	To operate freight service, San Francisco and Milpitas.	Granted	May 9, 1923
12081	United Stages Incorporated.	8721	To operate passenger service, San Francisco and Milpitas.	Granted	May 9, 1923
12081	United Stages Incorporated.	8993	To operate passenger stage service, Whitewater and Indio.	Granted	May 15, 1923
12087	A. Bland	8745	To operate stage line, Holtville and Yuma Bridge.	Granted	May 16, 1923
12087	Chas. B. Smith	8792	To operate stage line, Porterville and Springville.	Granted	May 16, 1923
12093	Albert R. Jeffery	8807	To operate passenger freight service, Coulterville and Pleasant Valley.	Granted	May 18, 1923
12093	G. R. and R. M. Green	8800	To operate stage service, Blairsden and Big Bear Lake.	Granted	May 18, 1923
12094	John H. Herkford	8895	To operate passenger freight service, Lemoore and Murray.	Granted	May 18, 1923
12095	Wm. J. McKinley and United Stages, Inc.	8985	Former to sell to latter passenger stage line, Redlands and Banning.	Granted	May 18, 1923
12096	Thurlo T. Davis and Pacific Electric Land Company.	9000	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12097	H. A. Cross "San Jose-Big Basin and Santa Cruz Stage Line" and E. B. Davis.	9000	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12098	H. A. Cross "San Jose-Big Basin and Santa Cruz Stage Line" and E. B. Davis.	9004	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12099	Merrick Munger "Mark West Springs"	9007	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12100	L. J. and C. E. Oldham and Harold H. Walker et al.	9012	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12101	John Simon and Robert Campbell.	9013	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12102	E. G. Bouchard	9014	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923
12103	United Stages, Inc.	9019	Former to sell to latter stage line, Alhambra and Monterey Park.	Granted	May 18, 1923

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TABLE B—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
12109	8027	Pickwick Stages, Inc.	To establish through joint passenger fares, vicinity of Redding and Sacramento.	Denied	May 18, 1923
12110	9011	Vic Poncolet and E. D. Soward.	Former to sell to latter passenger stage line, Gilroy and Gilroy Hot Springs.	Granted	May 18, 1923
12113	9025	P. P. Larson.	To operate express and parcel delivery service, Santa Rosa and Sausalito.	Denied	May 19, 1923
12119	9027	William J. Leavitt and Wayne Etter.	Former to sell to latter passenger freight line, Lewiston and Minersville.	Granted	May 19, 1923
12129	8387	Henry T. Campbell and H. W. Regan et al.	Former to sell to latter operative rights.	Denied	May 24, 1923
12130	C1355	Railroad Commission vs. Joseph Held et al.	Investigation into the methods and practices of operation of.	Denied	May 24, 1923
12142	8963	Edward Serretto et al. and E. Michel et al.	For approval of agreement.	Granted	May 24, 1923
12143	9041	Roy Morey and H. C. Venable.	Former to sell to latter auto truck milk route, vicinity of Los Angeles.	Granted	May 25, 1923
12144	9055	O. H. Harper and Paul Bernard.	Former to sell to latter freight and passenger line, Willows and Butte City.	Granted	May 25, 1923
12146	9057	George R. Carne "Waterman & Carne" and Frank C. Johnson.	Former to sell latter freight line, Los Angeles and Ojai.	Granted	May 25, 1923
12147	8809	Ole E. Busk.	To operate truck service, San Francisco and Los Angeles.	Denied	May 29, 1923
12147	8920	Jeremiah Lynch.	To operate truck service, Los Angeles and San Francisco.	Denied	May 29, 1923
12160	9061	D. Moyers and E. J. Thompson.	To transfer to latter operative rights.	Granted	June 1, 1923
12161	9064	Nell Hoxsie and Pickwick Stages, Inc.	Former to sell latter certain operative rights.	Granted	June 1, 1923
12162	9073	C. H. Anderson and Harrison Allen.	To operate passenger and baggage service, Knights Landing and Camp No. 6 of the Sutter Basin Company.	Granted	June 1, 1923
12168	9051	M. W. Bacon.	To establish change in route of the Visalia-General Grant Park auto-mobile stage.	Granted	June 1, 1923
12169	9052	Kings River Stage and Transportation Company.	To extend stage line from General Grant Park to Hume.	Granted	June 4, 1923
12175	8796	C. E. Doty.	To establish freight service, Calistoga and Kelseyville.	Granted	June 4, 1923
12176	8838	Francis E. and Merton E. Penhall.	To operate milk route service, vicinity of Los Angeles.	Granted	June 5, 1923
12179	8776	J. D. West.	To operate passenger, express and freight service, Buncney and Cayton.	Denied	June 5, 1923
12188	9071	Z. Hallstone.	To operate passenger and freight service, Burnt Ranch and Hoopa.	Granted	June 5, 1923
12189	9072	J. F. Douglas.	To operate passenger and freight service, Big Bar and Burnt Ranch.	Granted	June 9, 1923
12190	9091	C. H. Anderson and A. H. Weston et al.	To operate package service, Oroville and Swayne's Logging Camp.	Granted	June 9, 1923
12191	9098	Earl W. Davis and F. H. Fitzlaff "El Dorado Motor Transportation Company".	Former to sell latter passenger line, Woodland and Knights Landing.	Granted	June 9, 1923
12192	9100	J. W. Fouch and S. A. Porter.	Transfer of title and interest from copartnership to corporation.	Granted	June 9, 1923
12198	8845	John W. Martin.	Former to sell latter auto passenger freight line, Maxwell and Stonyford.	Granted	June 9, 1923
12199	8960	H. J. Sears.	To operate passenger service, Hollywood and Culver City.	Granted	June 12, 1923
12217	8729	Donald MacPherson.	To operate special delivery service, Los Angeles and Ontario.	Denied	June 12, 1923
12218	8584	S. Noda.	To operate passenger service, Arcata and Samoa.	Granted	June 19, 1923
12219	8763	Ernest W. Schueler.	To operate freight service, Livingston, San Jose and Oakland.	Granted	June 19, 1923
12220	8873	A. B. Forrest.	To operate passenger service, Monte Rio, Guerneville and Jenner-by-the-Sea.	Granted	June 19, 1923
12221	8890	Leslie T. Alward and A. H. Root.	To establish passenger, baggage and express service, Healdsburg and The Gevers.	Granted	June 19, 1923
12222	8990	Leila B. Root.	To operate passenger and express line, Weaverville and Big Bar.	Granted	June 19, 1923
12223	9001	Pacific Electric Land Company.	To operate passenger service, Burnbank and Hollywood.	Granted	June 19, 1923
12224	9016	Bay Cities Transit Company.	To operate passenger service, Santa Monica and Venice.	Granted	June 19, 1923

12225	9088	Gus Peterson "Arcata, Hoopa and Trinity Stage Line"	To operate stage line, Arcata, Hoopa and Pony Bar.	Granted	June 19, 1923
12241	9096	J. O. and Walter Bishop	To operate freight service, El Monte and San Diego.	Denied	June 21, 1923
12244	9080	Los F. Hend.	To operate freight service, San Diego County.	Granted	June 21, 1923
12254	8815	Pain Garage Transit Company.	To operate passenger stage, Hollywood and Universal City.	Denied	June 23, 1923
12255	8895	Duane D. Stafford and Percie C. Thacker.	To operate freight service, Westmoreland and Calipatria.	Granted	June 23, 1923
12267	9149	R. H. Rasmussen et al.	To operate truck line, San Francisco, Oakland and Martinez.	Granted	June 25, 1923
12268	9130	R. H. Rasmussen and J. C. Svane.	To operate freight service, San Francisco, Melrose, Oakland and San Jose.	Granted	June 25, 1923
12284	9068	Alvah Mitchell.	To operate freight and express service, Los Angeles and San Antonio Mesa.	Granted	June 28, 1923
12285	9020	C. E. Kimbrough.	To operate express service, Los Angeles and Riverside.	Granted	June 28, 1923
12286	9002	S. R. Pearl.	To operate freight and express service, Fresno and Caruthers.	Granted	June 28, 1923
12295	9167	John H. Martin.	To operate freight and express service, Fresno and Caruthers.	Denied	June 28, 1923
		Harry C. Harding, James N. Harding and Wm. T. Burr.			
12297	8931	J. J. Hubert "South Shore Drayage Company"	To operate freight service, Camarillo and San Fernando.	Granted	June 29, 1923
12301	8984	David W. Taylor.	To operate freight service, Santa Clara County.	Denied	June 29, 1923
12302	9129	F. F. Nellist.	To operate freight service, Oakland and Cordelia.	Granted	July 3, 1923
12303	9054	W. H. Bakerbower	To operate passenger, baggage and express, Eureka and Korbol.	Granted	July 3, 1923
12304	9132	O. Hawkinson.	To operate truck service, Arvin and City of Los Angeles.	Granted	July 3, 1923
12305	9044	K. A., L. M., and H. L. Kelsay.	To operate passenger, baggage and express service, Red Bluff and Jelly.	Granted	July 3, 1923
12307	9162	R. D. Brown and M. C. Langstaff.	Copartners to operate freight service, Kelseyville and Calistoga.	Denied	July 3, 1923
12308	9117	Frank Davies.	Former to sell latter passenger and freight line, Auburn and Forest Hill.	Granted	July 3, 1923
12310	9053	W. H. Bakerbower.	To operate freight service, Nevada City and Forest.	Denied	July 3, 1923
12311	9160	B. L. Halverson "Modesto-LaGrange Stage"	To operate truck line, Little Rock and City of Los Angeles.	Granted	July 3, 1923
			To discontinue passenger and freight service, La Grange and Don Pedro Dam.		
12322	8626	Mary M. Redgrave and Russell O. Douglass.	Former to sell to latter passenger stage line, Folsom and Sacramento.	Granted	July 3, 1923
12323	9101	Russell O. Douglass.	To operate passenger and baggage service, Folsom and Sacramento.	Denied	July 6, 1923
12325	9172	F. D. Jamison and Verne Heliot.	Former to sell latter stage line, Fresno and Auberry.	Granted	July 6, 1923
12331	8776	J. D. West.	To operate passenger, express and freight service, Burney and Cayton, petition for rehearing.	Granted	July 7, 1923
12342	9182	Geo. E. Waring, A. L. Linthicum and Webb Bros.	Former to sell latter freight and express service, Escocido and Palomar.	Denied	July 13, 1923
12343	9183	S. C. Houck and W. H. Pimental.	Former to sell interest to latter in automotive stage line, Sacramento.	Granted	July 13, 1923
12344	9185	R. E. Stowe and Beverly Gibson.	Former to sell latter freight line, Sacramento and Rio Vista.	Granted	July 13, 1923
12347	9191	J. M. Simpson and Geo. W. Mathison.	Former to sell latter freight and freight line, Alderpoint and Harris.	Granted	July 13, 1923
12348	9192	Louis E. Smith and E. W. Ramsey.	To extend stage service, Susanville and Camp E.	Granted	July 13, 1923
12349	9193	Reil Dani.	To operate passenger, baggage and express service, Jelen and King City.	Granted	July 13, 1923
12350	9199	F. M. Dismore and Chas. W. King.	Former to sell latter stage line, Ravendale and Redrock.	Granted	July 13, 1923
12351	8962	Sequoia National Park Stage Company.	To operate passenger and express service, Three Rivers and Mineral King.	Granted	July 13, 1923
12352	8871	J. W. Puckish.	To operate freight, express and baggage service, Fresno and Pinedale.	Granted	July 24, 1923
12353	8816	Verduro Hills Transportation Company.	To operate passenger stage service, Pasadena and Sunland.	Granted	July 24, 1923
12364	8937	Sequoia National Park Stage Company.	To operate passenger and express service, Visalia and Lemon Cove.	Denied	July 25, 1923
12401	8801	Joseph Rathfelder.	To operate passenger and express line, Marysville and Chico.	Denied	July 25, 1923
12404	9010	Roy L. Smith.	To operate freight service, Middletown and the Resorts.	Denied	July 27, 1923
12425	9100	George Teaford.	To change route of North Fork Stage Company.	Granted	Aug. 2, 1923
12426	9206	Thomas B. Riley.	To operate passenger, baggage and freight service, Eureka and Korbol.	Granted	Aug. 2, 1923
12427	9212	Emul J. Kleinsmith and Thos. E. Cheney.	Former to sell latter auto freight and passenger line, Topanga Beach and Outside Inn.	Granted	Aug. 2, 1923
			Approval of lease of operate right auto stage line, Cascade and Hunting-	Denied	
			ton Lake points.	Denied	
12428	9242	Huntington Lake Hotel Company.			



TABLE B—AUTO STAGE APPLICATIONS—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
12436	9151	Motor Transit Company	To extend stage service from Long Beach to San Pedro Harbor.	Granted	Aug. 2, 1923
12437	9251	A. C. McVey and Valley Transit Company	Former to sell latter stage line, Fresno and Dinuba.	Granted	Aug. 2, 1923
12441	9279	John Leonard	To operate passenger and freight service, Mariposa and Jerseydale.	Granted	Aug. 2, 1923
12442	9280	C. A. Schoen and A. B. Ogdon	Former to lease latter operative right stage line, Redlands and Yucaipa.	Granted	Aug. 2, 1923
12443	9262	Walter Kielhofer and L. L. Blasdel	Former to sell latter freight service, Los Angeles and points in the Antelope Valley.	Granted	Aug. 2, 1923
12445	9235	S. S. Summers and Son and J. D. West.	Former to sell latter stage line, Burney and Cayton.	Denied	Aug. 2, 1923
12446	9244	Wm. F. Boehlert and A. F. Schwartz and Ardis C. Gray	Copartnership to purchase Wm. F. Boehlert freight line, Los Angeles and Manhattan.	Granted	Aug. 2, 1923
12448	9283	Paul Athey and Beverly Gibson.	Former to sell latter passenger line, Suisun and Rio Vista.	Granted	Aug. 2, 1923
12451	9229	A. E. Donovan and Hugh M. Wilcox, M. J. Weakly	Former to transfer operative right to copartnership.	Granted	Aug. 2, 1923
12468	9223	Smith Auto Company	To operate freight line, Bishop and Mammoth Hotel, Mono County.	Granted	Aug. 11, 1923
12469	9281	Keith Pearce "Banning Transfer Company"	To operate truck line, Banning and Los Angeles.	Denied	Aug. 11, 1923
12472	8863	George Latlin	To operate passenger, baggage and express service, Healdsburg and Calistoga.	Granted	Aug. 14, 1923
12473	9060	J. H. Lord	To extend service, Glendora and Monrovia.	Granted	Aug. 14, 1923
12476	9102	F. H. Mountford and C. C. Rhodes	To operate passenger service, Los Angeles and Trona.	Denied	Aug. 14, 1923
12477	9078	H. A. Spreitz "Goleta Bus and Messenger Service"	To operate passenger, express and baggage service, Santa Barbara and Goleta.	Granted	Aug. 14, 1923
12484	8774	T. J. Cronin "Madera-Wawona Stage Line"	To operate freight line, change passenger and express service and extend route.	Granted	Aug. 14, 1923
12485	9083	Earl F. Blubaugh	To operate freight service, Los Angeles and McKittrick.	Granted	Aug. 14, 1923
12491	9304	M. J. Piasse	To operate passenger and express service, Jackson and Phase's Resort.	Granted	Aug. 15, 1923
12494	9059	H. R. Barnard	To operate messenger service, Los Angeles and Whittier.	Denied	Aug. 17, 1923
12498	9288	C. C. Newton and W. D. Ayers	Copartners to sell truck line to R. W. Lavery.	Granted	Aug. 21, 1923
12513	9322	Geo. L. Terry and C. H. Pennoyer	Former to sell latter passenger line, Descanso-Resort.	Granted	Aug. 21, 1923
12521	9120	Turner Lillie	To establish stage line, Stockton, Angels Camp.	Granted	Aug. 22, 1923
12522	8966	Fred Winkler	To operate passenger and mail service, Valley Springs-Sheep Ranch.	Granted	Aug. 22, 1923
12523	8926	A. A. Johnson	To operate passenger, baggage and express service, Westwood-Stirling City.	Granted	Aug. 22, 1923
12524	8908	Ross Forsyth	To operate freight and passenger service, Fresno-San Joaquin Light and Power Company's Camp No. 2.	Granted	Aug. 22, 1923
12525	8982	Motor Transit Company, Kern County Transporta- tion Company and Walter Boyd, Chris Matly	To operate joint auto stage service, Los Angeles-Taft	Granted	Aug. 22, 1923
12526	8842	N. W. Calkins-Oregon Railway	To operate stage line, Alturas-Engleville.	Granted	Aug. 22, 1923
12527	9003	P. W. Duggan, G. J. Fanaria and W. H. Curtis.	To establish through passenger fares, California-Sausalito	Granted	Aug. 22, 1923
12530	9008	Wm. H. Powell	To establish joint passenger fares and sell through tickets, Los Angeles and Taft.	Granted	Aug. 23, 1923
12535	7693	California Transit Company	To operate stage line, Oakland-Sacramento, order for rehearing.	Denied	Aug. 23, 1923
12560	8330	S. and F. Auto Truck Line and Santa Fe Express and Drayage Company	To establish through route and joint rates, San Francisco-San Jose-Oakland.	Denied	Sept. 4, 1923

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12567	C. P. Hazard.	9028	To operate passenger, express, baggage and freight service, Santa Maria and Taft.	Sept. 4, 1923	Granted
12570	Joe Bosoff and Acop Tarvoff.	9079	To operate a motor freight service, Artesia-Long Beach.	Sept. 4, 1923	Denied
12574	Mrs. C. W. Mingus.	7502	To operate motor freight milk service Michigan Avenue and Center Street, near town of Clearwater.	Sept. 4, 1923	Denied
12583	Hodge and Santen.	9146	To operate passenger service, Victorville and San Bernardino.	Sept. 7, 1923	Granted
12585	Peerless Stages, Inc.	9351	Temporary certificate to operate between East Fourteenth Street and Durant Avenue and the Municipal Golf Links, Oakland.	Sept. 7, 1923	Granted
12588	E. C. Peck.	9363	To operate bus and truck service, San Francisco-Bakersfield.	Sept. 7, 1923	Denied
12589	Yosemite National Park Company.	9107	To operate passenger service, Fresno-Yosemite National Park boundary.	Sept. 11, 1923	Granted
12593	D. K. Hutchinson.	8394	To operate freight line, Los Angeles-Imperial Valley points.	Sept. 13, 1923	Denied
12594	Frank Demichio.	8952	To operate freight service, San Jose-San Francisco-Oakland.	Sept. 13, 1923	Denied
12595	Wm. L. Deysher.	8987	To operate freight truck service, Novato-San Francisco.	Sept. 13, 1923	Denied
12596	Edward H. Curry.	8991	To operate express and passenger service, Lemon Cove-Viaulia, Tulare County.	Sept. 13, 1923	Denied
12597	R. W. Rasmussen.	8994	To establish freight service, Oakland-Hollister.	Sept. 13, 1923	Denied
12602	Frost and Frost Trucking Company.	9092	To operate freight service, Beaumont-Ontario-Los Angeles.	Sept. 13, 1923	Denied
12603	T. E. Ives.	9220	To operate freight line, Raymond-Fish Camp.	Sept. 13, 1923	Granted
12604	Holmes Motor Transport Company.	9310	To operate passenger service, San Francisco-Blythe.	Sept. 13, 1923	Denied
12605	W. T. Murray and H. N. Lein.	9316	To operate passenger service, Los Angeles-Blythe.	Sept. 13, 1923	Denied
12606	E. F. Harvey and Louis Hansen.	9326	Former to sell to latter passenger freight line Ukiah-Potter Valley.	Sept. 13, 1923	Granted
12607	C. E. Tolson and H. M. Tolson.	9350	To operate freight, express and baggage service, Pasadena-Los Angeles, petition for rehearing.	Sept. 13, 1923	Granted
12610	Pasadena Transfer and Storage Company.	8301	To approve schedule of rates and time table between El Centro and San Diego.	Sept. 13, 1923	Denied
12621	Frank Hawk.	8472	To approve schedule of rates and time table between Imperial and El Centro to Calexico.	Sept. 18, 1923	Denied
12622	Frederick Ernsting.	8483	Approval of schedules of rates and time table between Nilands and Imperial.	Sept. 18, 1923	Denied
12623	O. D. Hadley.	8367	Approval of schedules of rates and time table between San Diego and Los Angeles.	Sept. 18, 1923	Denied
12624	W. H. Updegraff.	8473	To change stage route between San Diego and Los Angeles.	Sept. 18, 1923	Denied
12629	Pickwick Stages, Inc.	9165	To discontinue service between El Centro and Seelye.	Sept. 18, 1923	Granted
12635	United Stages, Inc.	9374	Approval of schedule of rates and time table between Brawley and Imperial, and from El Centro to Calexico.	Sept. 20, 1923	Granted
12636	E. C. Ellis.	8485	Approval of schedules of rates and time table between San Diego and Los Angeles.	Sept. 20, 1923	Denied
12637	J. O. McClung.	8474	Approval of schedules of rates and time table between San Diego and Los Angeles.	Sept. 20, 1923	Denied
12638	C. C. Willis.	8471	Approval of schedules of rates and time table between San Diego and Los Angeles.	Sept. 20, 1923	Denied
12641	William L. Whittle.	8475	Approval of schedules of rates and time table between Los Angeles and Santa Barbara.	Sept. 20, 1923	Denied
12642	W. J. Tebo.	8069	To operate freight service between Libby, McNeil and Libby cannery and various points.	Sept. 20, 1923	Denied
12643	Geo. Wiegand and P. E. Tibbets.	9382	Former to sell and transfer to latter truck line between Los Angeles and San Jacinto.	Sept. 20, 1923	Denied
12644	Fred A. Sutherland.	9317	To operate passenger service, San Diego County and Mexican border.	Sept. 20, 1923	Granted



TABLE B—AUTO STAGE APPLICATIONS—Concluded.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
12647	9383	Rombauer Transportation Company and Rush Op- penheimer	Former to sell latter freight line, San Diego-Descanso	Granted	Sept. 21, 1923
	8833	A. J. Mason and F. W. A. Cording	Former to sell latter one half interest in passenger line, Monterey-Pacific Grove	Granted	Sept. 24, 1923
12649	9085	Bay Rapid Transit Company	To change schedule of rates and discontinue service, Monterey	Denied	Sept. 24, 1923
12650	8917	F. W. A. Cording vs. Bay Rapid Transit Company	Unlawful operation auto stage line, Monterey	Denied	Sept. 24, 1923
	8891	Sam Aronson and H. E. Boswell "Golden Eagle- Barker Stage"			
12651	9168	Harry C. Harding, James N. Harding and Wm. T. Burr	To operate passenger and express service, Sacramento-Marysville	Granted	Sept. 24, 1923
12652	9211	Madera-Yosemite-Rig Tree Auto Company	To operate freight service, Camarillo-Los Angeles	Granted	Sept. 24, 1923
12652	9386	City Transfer and Storage Company	To operate passenger service, Wishon Station and Miami Lodge	Denied	Sept. 24, 1923
12653	9218	C. F. Haguewood and T. H. Adams	To operate truck service between Long Beach-San Pedro	Granted	Oct. 13, 1923
12654	8975	J. E. Casey	To operate passenger service end of car line on Whittier Boulevard and First and Rowan Streets	Granted	Oct. 13, 1923
	8815	Palm Garage Transit Company	To extend package delivery service	Denied	Oct. 13, 1923
12695	9197	Universal City Stage Line	To operate passenger stage service between Hollywood-Universal City, rehearing	Granted	Oct. 13, 1923
12696	8848	J. P. Hildreth	To lease auto stage operative rights, rehearing	Denied	Oct. 13, 1923
12697	9233	Carl A. Lundberg	To operate auto passenger service, Cloverdale-Ukiah	Granted	Oct. 13, 1923
12698	9253	B. and H. Transportation Company	To operate auto freight service between Santa Fe Springs-El Segundo oil fields	Granted	Oct. 13, 1923
12701	8725	L. A. Misener, Pete Winfield, Luke Winfield and W. F. Ely "Misener Motor Drayage Company"	To extend present service, Long Beach-Atlantic Boulevard Square	Denied	Oct. 13, 1923
			To establish freight service for fruits and vegetables, Hollister-Oakland	Denied	Oct. 13, 1923

TABLE C—DISMISSALS (Cases).

Dec. No.	Case No.	Litigants	Date
11755	1873	Mr. Carl Abell vs. Pacific Telephone and Telegraph Company	Mar. 6, 1923
11757	1460	Pacific Gas and Electric Company vs. Western States Gas and Electric Company	Mar. 6, 1923
11833	1757	C. P. Avenell by J. F. Avenell and A. D. Smith vs. Consolidated Irrigation District	Mar. 24, 1923
11860	1767	Bay Farm Island Transit Company vs. San Francisco-Oakland Terminal Railways Company	Mar. 30, 1923
11974	1770	Frank P. Cady and Rilla E. Cady vs. Katherine Cook and Robert M. Cook	April 25, 1923
1858	1770	Mrs. Clara F. Alsing vs. Pacific Telephone and Telegraph Company	May 2, 1923
12010	1858	Mrs. Clara F. Alsing vs. Pacific Telephone and Telegraph Company	May 2, 1923
12011	1875	M. E. Galvan and G. F. Galvan vs. Southern Pacific Company	May 4, 1923
12035	1758	M. E. Galvan and G. F. Galvan vs. Southern Pacific Company	May 4, 1923
12056	1876	James Gowland vs. Pacific Telephone and Telegraph Company	May 8, 1923
12067	1886	El Monte Chamber of Commerce vs. Pacific Telephone and Telegraph Company	May 8, 1923
12107	1891	Elta Herald vs. Pacific Telephone and Telegraph Company	May 9, 1923
12108	1900	Captain F. E. Curtis vs. Pacific Telephone and Telegraph Company	May 18, 1923
12116	1877	Southern California Counties Joint Traffic Committee vs. Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway and Southern Pacific Company	May 18, 1923
12158	1786	City of Sacramento vs. Pacific Gas and Electric Company	May 19, 1923
12244	1736	Town of Mill Valley vs. Pacific Telephone and Telegraph Company	May 29, 1923
12272	1737	A. B. Ambler vs. Pacific Telephone and Telegraph Company	June 22, 1923
12365	1893	F. C. Parsons and Nellie D. Parsons vs. Pacific Telephone and Telegraph Company	June 22, 1923
12366	1925	Sierra Oil and Refining Company vs. Southern Pacific Company	June 25, 1923
12412	1925	S. M. Call vs. Excelsior Water and Mining Company	July 17, 1923
12413	1827	City of Beverly Hills vs. Beverly Hills Utilities Company	July 17, 1923
12414	1921	Railroad Commission vs. Co-operative Land Company	July 17, 1923
12444	1919	City of San Diego, John Taylor Kean et al. vs. The Pacific Telephone and Telegraph Company	July 27, 1923
12617	1929	Raymond W. Miller and William Riseden vs. Stockton Terminal and Eastern Railroad Company	Aug. 2, 1923
12625	1901	United Stages, Inc. vs. Frederiek Ernesting, O. D. Hadley, E. C. Willis, J. O. Moore, Frank Hawk, W. H. Updegraff, J. O. McClung and C. C. Willis	Sept. 15, 1923
12659	1923	Western Water Company vs. W. S. Lierly	Sept. 18, 1923
12678	1530	Harry N. Blarwa vs. M. Haydis and J. Haydis	Sept. 24, 1923
12701	1741	Lynn M. Stewart, H. S. Hill, F. M. West and Henry West vs. G. H. Richardson	Oct. 2, 1923
12709	1883	G. W. Hine vs. Southern Pacific Company	Oct. 13, 1923
1842		Joe Bosoff and Acop Tarvoff vs. Oranecoff and Oranecoff	Oct. 13, 1923
12711	1879	Railroad Commission vs. Francis E. and Merton E. Penhall, H. C. Venable and Elmer Donlay	Oct. 13, 1923

TABLE D—DISMISSALS (Applications).

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
11720	8590	Southern Pacific Company	To construct spur track near Jasmin, County of Kern	Feb. 24, 1923
11753	8573	Valley Transfer Company	Classification of freight and class rates	Mar. 6, 1923
11754	8794	Lewis A. Monroe	To change freight classification	Mar. 6, 1923
11756	8225	Pacific Gas and Electric Company	To approve certain agreements with Standard Lumber Company	Mar. 6, 1923
11774	7475	Fresno City Railway Company	To approve extension of lease	Mar. 12, 1923
11776	6672	W. M. Hultman	To operate auto truck and express service, Oakland-Hollister	Mar. 13, 1923
11777	7660	R. W. Rasmussen	To establish auto freight service, Oakland and Hollister	Mar. 13, 1923
11778	8609	Samuel Costa	To operate passenger service, Truckee and Donner Lake	Mar. 13, 1923
11779	8647	Mt. Shasta Freight Lines	To operate freight and express service, Sacramento and Redding	Mar. 13, 1923
11785	8694	Upper Lake Farmers' Telephone Association	To discontinue service, Upper Lake Central, to continue service in Upper Lake and vicinity	Mar. 13, 1923
11786	8695	Upper Lake Central	To increase rates	Mar. 14, 1923
11808	8418	Otto Gross and J. V. Matney	To operate auto stage line, Hornbrook and Eureka	Mar. 14, 1923
11809	8751	Christopher C. Seinar	To operate passenger, freight, express and baggage service, Happy Camp and Orleans Bar	Mar. 16, 1923
11851	8588	Don L. Campbell, Herbert N. Capps and Miles N. Hunt	To operate auto passenger service, Pasadena and San Diego	Mar. 16, 1923
11907	8719	J. W. Minges	To sell water plant	Mar. 29, 1923
11920	8480	Santa Cruz County Utilities	Joint use of electric distribution lines	April 5, 1923
11931	8648	Bay Point Light and Power Company	To readjust rates	April 13, 1923
11951	8339	F. W. Gomph	To change description of insecticides and fungicides	April 13, 1923
11961	8449	Claude E. Tolson	To operate auto freight truck service, Los Angeles-Signal Hills Oil Field	April 20, 1923
11965	8385	Robt. Sheehan	To operate freight service, Wilmington-Santa Barbara	April 20, 1923
11966	8744	Rice Transportation Company	To transfer truck line	April 24, 1923
11977	8827	John P. Dougherty	To operate passenger and freight auto stage service, Arcata-Samoa	April 24, 1923
11984	8258	San Rafael Freight and Transfer Company	To transfer operative right	April 27, 1923
12009	8219	Sarah S. Burger-Liberty Transfer and Storage Co.	To operate motor truck transportation service	April 27, 1923
12035	8132	W. E. White and C. C. White	To transfer water company and change name	April 27, 1923
12056	8191	Southern Pacific Company	To construct spur track at grade crossing	May 2, 1923
12070	8290	Dawson's Fireproof Storage—H. S. Dawson	To operate household motor transportation service	May 8, 1923
12076	8400	Griel S. Bishop and Lorene L. Witt	To operate auto freight line	May 8, 1923
12106	8406	W. H. Henry and W. S. Worcester	To operate household motor moving service	May 8, 1923
12125	8718	The White Lines, Inc.	To operate motor truck service	May 12, 1923
12127	8670	Alex Laprise	To operate passenger service	May 18, 1923
12166	8980	Clark Tucker	To operate motor truck, express and freight service	May 23, 1923
12197	9049	El Dorado Motor Transportation Company	To transfer property	May 24, 1923
12203	9099	Stearns Wharf Company	To increase rates, rules and regulations for dockage, wharfage and handling of merchandise	June 9, 1923
12205	8983	C. E. Driscoll	To operate passenger service	June 11, 1923
12233	3602	W. T. Murray	To operate passenger auto stage service	June 12, 1923
12234	8679	Serra and San Francisco Power Company	To fix rates	June 12, 1923
		C. D. Gulick	To operate passenger auto stage service	June 19, 1923



12235	8681	C. D. Gulick	To operate passenger auto stage service.	June 19, 1923
12236	8705	C. D. Gulick	To operate passenger auto stage service.	June 19, 1923
12237	8706	C. D. Gulick	To operate passenger auto stage service.	June 19, 1923
12238	8723	C. D. Gulick	To operate passenger auto stage service.	June 19, 1923
12273	8997	Atchison, Topeka and Santa Fe Railway Company.	To construct, maintain and operate spur track.	June 25, 1923
12274	9056	Fresno Traction Company.	To construct grade crossing.	June 25, 1923
12314	8164	The Capital Sacramento Transfer Van and Storage Company.	To operate household moving service.	July 3, 1923
12315	8187	John W. Galway	To operate motor freight service.	July 3, 1923
12316	8244	R. E. O'Brien	To operate motor freight service.	July 3, 1923
12411	8551	Orange Belt Draymen's Association, Inc.	To issue and sell stock.	July 27, 1923
12433	8689	Orange Belt Draymen's Association, Inc.	To operate automobile freight service.	July 27, 1923
12471	9221	A. Ellis and J. W. Robertson	To sell stage line, Bodego and Santa Rosa.	Aug. 2, 1923
12481	9122	Title Insurance and Trust Company, Elias V. Rosenkranz and J. Bailey Powell.	To sell water system.	Aug. 11, 1923
12482	8680	C. D. Gulick	To operate a to freight service, Pasadena-Venice.	Aug. 14, 1923
12483	4718	Town of Mountain View	To fix just compensation for electric system.	Aug. 14, 1923
12483	9274	Los Angeles and San Pedro Transportation Company	To change rates, rules and regulations.	Aug. 14, 1923
12502	9116	C. T. Boyd	To sell and transfer certificate of public convenience and necessity.	Aug. 17, 1923
12509	9274	Los Angeles and San Pedro Transportation Company	To make certain changes in its tariff rates, rules, etc., to increase rates.	Aug. 17, 1923
12600	8819	T. Iwasaki	To operate freight service between Alviso, San Francisco and Oakland.	Sept. 13, 1923
12611	8427	H. D. Rocheville "Interstate Auto Tours Stage Co."	To operate passenger and hand baggage service between Los Angeles, San Francisco, Portland and Seattle.	Sept. 13, 1923
12669	9353	Atchison, Topeka and Santa Fe Railway Company.	To construct spur track in City of Reedley, Fresno County.	Oct. 1, 1923
12670	9354	Atchison, Topeka and Santa Fe Railway Company.	To construct two tracks across Forty-ninth Street, Vernon, Los Angeles County.	Oct. 1, 1923
12710	8907	H. C. Venable	To operate freight and express service, Norwalk-Long Beach.	Oct. 13, 1923
12711	8623	K. Ogaucsoff and T. Oskanoff	To extend their milk route service.	Oct. 13, 1923
12711	8711	Mrs. Hannah Mingus	Certificate and transfer operative rights milk truck service.	Oct. 13, 1923
12712	8802	Placentia Trucking Company	To operate freight service between Placentia-Wilmington-San Pedro-Los Angeles.	Oct. 13, 1923
12714	9017	County of Merced	To construct Highway crossing over tracks of Central Pacific Railroad on Michigan Avenue crossing.	Oct. 15, 1923

TABLE E—GRADE CROSSINGS.

Dec. No.	Applica- tion No.	Applicant (and other parties)	Location	Action	Date
11717	8604	Los Angeles and Salt Lake Railway Company (Town of La Habra)	Cypress Street.	Granted	Feb. 24, 1923
11719	8698	Southern Pacific Company (Town of Emeryville)	Sixty-second Street.	Granted	Feb. 24, 1923
11726	8692	Southern Pacific Company (County of Fresno)	Vicinity of Truman.	Granted	Feb. 27, 1923
11728	8685	Southern Pacific Company (Town of Capay)	Woodland and Runney Road.	Granted	Feb. 27, 1923
11730	8700	Southern Pacific Company (City of San Jose—West San Jose)	Sunol Street.	Granted	Feb. 27, 1923
11740	8726	Pacific Electric Railway Company (Los Angeles Railway Corporation)	West of Thirty-fifth Street between Grand Avenue and Hill Street, Los Angeles.	Granted	Mar. 1, 1923
11741	8727	Southern Pacific Company (City of El Centro)	State Street.	Granted	Mar. 1, 1923
11748	8733	Western Pacific Railroad Company (Market Street Railway Company)	City and County of San Francisco—Bryant St.	Granted	Mar. 6, 1923
11751	8746	Southern Pacific Company (City of Vernon)	Alameda near Fifty-second Street.	Granted	Mar. 6, 1923
11751	8605	City of Santa Ana (Pacific Electric Railway Company)	Myrtle Street.	Granted	Mar. 7, 1923
11768	8772	Southern Pacific Company (City of Delano)	Cecil Street.	Granted	Mar. 9, 1923
11769	8728	Southern Pacific Company (County of Stanislaus)	State Highway near Turlock.	Granted	Mar. 9, 1923
11770	8754	Southern Pacific Company (City of Vernon)	East Twenty-fifth Street, Clement Junction.	Granted	Mar. 9, 1923
11775	8783	Pan American Petroleum Company and Pacific Electric Railway Company	Near Watson Station between Dominguez Junction and Redondo Road, City of Los Angeles.	Granted	Mar. 9, 1923
11814	8800	Hutchinson Lumber Company (County of Butte)	Mooretown-Lumpkin County Road.	Granted	Mar. 13, 1923
11815	8793	Southern Pacific Company (County of Amador)	Near Clarksons.	Granted	Mar. 19, 1923
11816	8780	Sacramento Northern Railroad (City of Oroville)	High Street.	Granted	Mar. 19, 1923
11832	8799	Pacific Electric Railway Company (City of Beverly Hills)	Santa Monica Boulevard and Third Street.	Granted	Mar. 24, 1923
11838	8176	County of Sacramento (Southern Pacific Company)	Near Walerga.	Granted	Mar. 29, 1923
11839	8696	County of Siskiyou (Southern Pacific Company)	Nutglade, Dunsmuir.	Granted	Mar. 29, 1923
11893	8429	City of Brea (Pacific Electric Railway)	North Orange Avenue.	Granted	Mar. 29, 1923
11910	8750	Atchison, Topeka and Santa Fe Railway Company (City of Abony)	San Gabriel Avenue.	Granted	April 4, 1923
11911	8716	Los Angeles and Salt Lake Railroad Company (Los Angeles Railway Corp.)	City of Vernon.	Granted	April 4, 1923
11917	8716	Los Angeles and Salt Lake Railroad Company (Los Angeles Railway Corp.)	Near Nerey Station.	Granted	April 6, 1923
11921	8545	City of Venice (Pacific Electric Railway Company)	Dell Avenue, City of Venice.	Granted	April 13, 1923
11923	8734	County of Tehama (Pacific Electric Railway Company)	Orchard Park Tract, Lots 108, 109.	Denied	April 13, 1923
11927	8710	City of Venice (Pacific Electric Railway Company)	Milwood Avenue.	Denied	April 13, 1923
11935	8885	Southern Pacific Company (City of Santa Ana)	Second Street.	Denied	April 13, 1923
11937	8878	Western Pacific Railroad Company (City of Oakland)	East Twelfth Street.	Granted	April 17, 1923
11937	8804	Western Pacific Railroad Company (City of San Jose, County of Santa Clara)	Certain roads, highways and streets.	Granted	April 17, 1923
11942	8922	Athlison, Topeka and Santa Fe Railway Company (City of Stockton)	Huntington Street.	Granted	April 20, 1923
11943	8894	Athlison, Topeka and Santa Fe Railway Company (City of Stockton)	East Taylor, Hazel Streets.	Granted	April 20, 1923
11944	8874	County of Los Angeles (Pacific Electric Railway Company)	Helen Street, Lankershim.	Granted	April 20, 1923
11963	8860	Southern Pacific Company (Town of Emeryville)	Sixty-third Street, Doyle Street.	Granted	April 24, 1923
11980	8865	Atchison, Topeka and Santa Fe Railway Company (County of Tulare)	Ultra.	Granted	April 24, 1923
11987	8781	County of Stanislaus (Southern Pacific Company)	Near Waterford.	Granted	April 27, 1923
11988	8785	H. H. Stoddard (County of Plumas)	County road on Feather River.	Granted	April 27, 1923
11990	8824	Western Pacific Railroad Company (City of Oakland)	London, West Thirc and Filbert Streets.	Granted	April 27, 1923
11990	8807	Southern Pacific Railroad Company (City of Stockton)	Lincoln Street.	Granted	April 27, 1923
11992	8868	Southern Pacific Company (City of Dinuba)	Lincoln Street.	Granted	April 27, 1923
11993	8904	Atchison, Topeka and Santa Fe Railway Company (City of San Bernardino)	1 Street, O-Fenth Street.	Granted	April 27, 1923

12007	8956	Atchison, Topeka and Santa Fe Railway Company (County of San Bernardino).....	Arrowhead Avenue; Vineyard Avenue-Grand Avenue west of Malaga Street in the El-wanda Vineyard Tract.....	Granted	May 2, 1923
12033	8879	County of San Diego and Atchison, Topeka and Santa Fe Railway Co.....	Alley post 241 plus 4327.....	Granted	May 4, 1923
12044	8341	Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles).....	City of Los Angeles.....	Granted	May 8, 1923
12047	8788	Los Angeles Railway Corporation (Pacific Electric Railway Company).....	City of Los Angeles.....	Granted	May 8, 1923
12049	8899	Southern Pacific Company (County of Sacramento).....	County roads near Galt.....	Granted	May 8, 1923
12050	8040	Los Angeles Railway Corporation (Los Angeles and Salt Lake Railroad Co.).....	City of Vernon.....	Granted	May 8, 1923
12051	8646	County of Santa Cruz (Southern Pacific Company) (Union Traction Com-pany).....	Sequel Road District.....	Granted	May 9, 1923
12066	8977	Southern Pacific Company (City of El Centro).....	Euclid Avenue.....	Granted	May 9, 1923
12069	8002	Southern Pacific Company (County of Fresno).....	California-Orange Avenue near Mars.....	Granted	May 12, 1923
12071	8947	Southern Pacific Company (County of Santa Clara).....	Moorepark-Avenue, Race Street, vicinity of West San Jose.....	Granted	May 12, 1923
12072	8955	Southern Pacific Company (County of Sutter).....	Vicinity of Bogue.....	Granted	May 12, 1923
12073	8976	Southern Pacific Company (County of Kern).....	Vicinity of Fran.....	Granted	May 12, 1923
12082	8875	County of Los Angeles (Southern Pacific Railroad).....	Muscatal Avenue.....	Granted	May 15, 1923
12086	8872	Southern Pacific Company (County of Placer).....	Vicinity of Newcastle.....	Granted	May 15, 1923
12088	8983	Southern Pacific Railroad Company (City of San Jose).....	Shortridge Avenue.....	Granted	May 16, 1923
12089	8914	Southern Pacific Company (County of Sutter).....	Vicinity of Live Oak.....	Granted	May 16, 1923
12090	8562	County of San Joaquin (Central California Traction Company).....	District No. 2, Elkhorn Township.....	Granted	May 16, 1923
12121	8900	Pacific Electric Railway Company (City of Beverly Hills).....	Santa Monica Boulevard, Alden Drive and Third Street.....	Granted	May 23, 1923
12132	8911	City of Beverly Hills (Pacific Electric Company).....	Alpine Drive south to Burton Way; Maple Drive south to Burton Way; Beverly Boulevard west to Santa Monica Boulevard.....	Granted	May 24, 1923
12133	8942	Southern Pacific Company (City of Richmond).....	Northwest Avenue and Critchett Avenue.....	Granted	May 24, 1923
12134	9024	Petaluma and Santa Rosa Railroad Company (Town of Sebastopol).....	South Main Street.....	Granted	May 24, 1923
12135	9026	Western Pacific Railroad Company (City of San Jose).....	Twenty-eighth Street.....	Granted	May 24, 1923
12141	9034	Southern Pacific Company (County of Tulare).....	Vicinity of Richgrove.....	Granted	May 25, 1923
12150	8903	Southern Pacific Company (City of Los Angeles).....	Alameda Street.....	Granted	May 29, 1923
12155	9021	Southern Pacific Company (City of Los Angeles).....	Alameda, Twenty-first Street.....	Granted	May 29, 1923
12157	8574	County of Sacramento (Western Pacific Railroad Company).....	West of Town of Elverta.....	Granted	June 5, 1923
12174	9047	Atchison, Topeka and Santa Fe Railway Company (County of San Bernar-dino).....	Lone Pine Road, near Pine Lodge Station.....	Granted	June 9, 1923
12185	8967	Southern Pacific Company (Market Street Railway Company).....	Fifth Street, San Francisco.....	Granted	June 9, 1923
12186	8973	Southern Pacific Company (Market Street Railway Company).....	Twineand, Fifth, Bluzome and Brannan Streets, San Francisco.....	Granted	June 9, 1923
12187	9018	Pacific Electric Railway Company (County of Los Angeles).....	Alameda Road and Alameda Street, Wilmington.....	Granted	June 9, 1923
12076	9076	Southern Pacific Company (County of Sacramento) (State of California).....	State Highway near Hood.....	Granted	June 13, 1923
12076	8784	Southern Pacific Company (City of Oakland).....	Fruit, Alice, Webster, Franklin, Broadway, Washington and Clay Streets.....	Granted	June 21, 1923
12240	8787	Atchison, Topeka and Santa Fe Railway Company (City of Oakland).....	First Street between Washington and Jackson, and upon Washington Street.....	Granted	June 21, 1923
12245	0112	Southern Pacific Company (City of Berkeley).....	Tenth Street.....	Granted	June 23, 1923
12246	8087	Southern Pacific Company (City of Dinuba).....	O Street-Ventura Street.....	Granted	June 23, 1923
12247	8075	Southern Pacific Company (City of Los Angeles).....	Lassen Street.....	Granted	June 23, 1923
12251	9089	Southern Pacific Company (City of San Francisco).....	Illinois-Twentieth Street.....	Granted	June 23, 1923

TABLE E—GRADE CROSSINGS—Concluded.

Dec. No.	Applicant (and other parties)	Location	Action	Date
12252	Southern Pacific Company (City of Alameda)	Blanding Avenue	Granted	June 23, 1923
12253	Western Pacific Company (County of San Joaquin)	Carlton Avenue	Granted	June 23, 1923
12258	City of Albany (Atchison, Topeka and Santa Fe Railway Company)	Division, Ninth and Brannan Streets	Granted	June 25, 1923
12263	Western Pacific Railroad Company (City of San Francisco)	Third Street	Granted	June 25, 1923
12264	Southern Pacific Railroad Company (City of Oakland)	Near Leaf	Granted	June 25, 1923
12265	Southern Pacific Company (County of Siskiyou)	East Twenty-sixth Street	Granted	June 25, 1923
12266	Atchison, Topeka and Santa Fe Railway Company (City of Vernon)	Roscorus and Congress Streets and San Diego Avenue	Granted	June 25, 1923
12282	Atchison, Topeka and Santa Fe Railway Company (San Diego)	State Street	Granted	June 27, 1923
12306	Pacific Electric Railway Company (City of Long Beach)	Overland Avenue	Granted	July 3, 1923
12307	Southern Pacific Company (Town of Emeryville)	Dice Road	Granted	July 3, 1923
12309	Southern Pacific Company (County of Los Angeles)	Third Street	Granted	July 3, 1923
12321	Southern Pacific Company (City of Selma, Fresno County)	Pine and Third Streets	Granted	July 6, 1923
12324	Southern Pacific Company (Town of Newhall)	Divisadero Avenue	Granted	July 6, 1923
12326	Southern Pacific Company (City of Fresno)	Pittsburg	Granted	July 7, 1923
12328	County of Contra Costa (Atchison, Topeka and Santa Fe)	Mississippi and Texas Streets	Granted	July 7, 1923
12330	Southern Pacific Company (City and County of San Francisco)	Saturn Avenue	Granted	July 13, 1923
12337	Southern Pacific Company (City of Los Angeles)	Mount Vernon Avenue	Granted	July 13, 1923
12338	Southern Pacific Company (City of Bakersfield)	Sycamore Street	Granted	July 13, 1923
12339	Southern Pacific Company (City of Santa Cruz)	Fruitvale Station	Granted	July 13, 1923
12340	Southern Pacific Company (City of Oakland)	Twenty-eighth Street	Granted	July 13, 1923
12341	Atchison, Topeka and Santa Fe Railway Company (City of Vernon)	Harriet Street	Granted	July 13, 1923
12343	Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Near Tracy	Granted	July 13, 1923
12346	Southern Pacific Company (County of San Joaquin)	Tres Vias Station Reservation	Granted	July 17, 1923
12362	Sacramento Northern Railroad (County of Butte)	Near Wallace	Granted	July 17, 1923
12364	Southern Pacific Company (County of Calaveras)	Fifty-fifth Street	Granted	July 18, 1923
12374	Southern Pacific Company (City of Vernon)	Live Oak and Indiana Streets	Granted	July 24, 1923
12381	Peninsular Railway Company (Town of Woodbridge)	King Road	Granted	July 27, 1923
12390	Southern Pacific Company (County of Santa Clara)	Colorado Street	Granted	July 27, 1923
12399	Southern Pacific Company (City of Los Angeles)	Division Street (Treat Avenue)	Granted	July 27, 1923
12403	Southern Pacific Company (City and County of San Francisco)	Salaspuedes Street	Granted	July 27, 1923
12404	Southern Pacific Company (City of Santa Barbara)	Tuolumne Street	Granted	July 27, 1923
12410	Atchison, Topeka and Santa Fe Railway Company (City of Parlier)	Fourth and Woodland Streets	Denied	July 30, 1923
12415	City of Davis (Southern Pacific Company)	Near Calico	Granted	July 30, 1923
12416	Southern Pacific Company (County of Imperial)	Near Leesville	Granted	July 30, 1923
12417	Southern Pacific Company (County of Ventura)	C Street	Granted	July 30, 1923
12419	Southern Pacific Company (City of Oakdale)	Wilmington Street	Granted	Aug. 2, 1923
12435	Board of Supervisors County of Los Angeles (Pacific Electric Railway Company)	Marth Street	Granted	Aug. 2, 1923
12438	Western Pacific Company (City of San Jose)	Plum Avenue	Granted	Aug. 2, 1923
12439	Southern Pacific Company (City of Ontario)		Granted	Aug. 2, 1923

12440	9271	Atchison, Topeka and Santa Fe Railway Company (County of San Bernardino)	Granted	Aug. 2, 1923
12447	9265	Tidewater Southern Railway Company (City of Manteca)	Granted	Aug. 2, 1923
12453	9247	Los Angeles and Salt Lake Railroad Company (City of Los Angeles)	Granted	Aug. 6, 1923
12475	8821	County of Tulare (Southern Pacific Company)	Granted	Aug. 14, 1923
12479	9184	City of Sacramento (Southern Pacific Company)	Granted	Aug. 14, 1923
12486	8806	County of Tulare (Atchison, Topeka and Santa Fe Railway Company)	Granted	Aug. 14, 1923
12508	9255	Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Granted	Aug. 21, 1923
12510	9200	Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Granted	Aug. 21, 1923
12511	9259	Southern Pacific Company (City of Los Angeles)	Granted	Aug. 21, 1923
12512	9204	Southern Pacific Company (City and County of San Francisco)	Granted	Aug. 21, 1923
12514	8979	County of Fresno (Atchison, Topeka and Santa Fe Railway Company)	Granted	Aug. 21, 1923
12518	9201	Southern Pacific Company (Town of Davis)	Granted	Aug. 21, 1923
12531	9231	Atchison, Topeka and Santa Fe Railway Company (City of Pasadena)	Granted	Aug. 23, 1923
12532	9311	Southern Pacific Company (City of Oakland)	Granted	Aug. 23, 1923
12533	9327	Southern Pacific Company (City of Los Angeles)	Granted	Aug. 23, 1923
12534	9206	City of Fullerton (Atchison, Topeka and Santa Fe Railway Company)	Granted	Aug. 23, 1923
12536	9328	Southern Pacific Company (City of Roseville)	Granted	Aug. 23, 1923
12539	9033	County of Riverside (Pacific Railway Company)	Granted	Aug. 23, 1923
12543	9329	Southern Pacific Company (City of Alhambra)	Granted	Aug. 23, 1923
12544	9299	Western Pacific Railroad Company (Town of Hayward)	Granted	Aug. 25, 1923
12545	9267	Southern Pacific Company (Town of Emeryville)	Granted	Aug. 25, 1923
12546	9286	Atchison, Topeka and Santa Fe Railway Company (City of San Diego)	Granted	Aug. 25, 1923
12553	9314	Southern Pacific Company (City of Burbank)	Granted	Aug. 25, 1923
12561	9332	Southern Pacific Company (City of Los Angeles)	Granted	Aug. 27, 1923
12568	9314	Pacific Electric Railway Company (County of San Bernardino)	Granted	Aug. 30, 1923
12569	9342	Southern Pacific Company (Town of Alviso)	Granted	Sept. 4, 1923
12577	9346	Southern Pacific Company (City of Imperial)	Granted	Sept. 4, 1923
12579	9343	Southern Pacific Company (County of Santa Barbara)	Granted	Sept. 6, 1923
12615	9358	Los Angeles and Salt Lake Railroad (City of Vernon)	Granted	Sept. 7, 1923
12616	9370	Southern Pacific Company (City of Berkeley)	Granted	Sept. 14, 1923
12627	9355	San Diego and Arizona Railway Company (San Diego)	Granted	Sept. 14, 1923
12634	9375	The Western Pacific Railroad Company (Santa Clara County)	Granted	Sept. 18, 1923
12645	9362	Atchison, Topeka and Santa Fe Railway Company (City of Orono)	Granted	Sept. 20, 1923
12646	9380	Southern Pacific Company (Tranquility)	Granted	Sept. 21, 1923
12637	9378	Southern Pacific Company (Vernon)	Granted	Sept. 27, 1923
12660	9378	Southern Pacific Company (Alhambra)	Granted	Sept. 27, 1923
12665	9406	Southern Pacific Company (City of Oakland)	Granted	Sept. 29, 1923
12666	9393	Southern Pacific Company (City of Burbank)	Granted	Oct. 1, 1923
12667	9200	County of Merced (Atchison, Topeka and Santa Fe Railway Company)	Granted	Oct. 1, 1923
12668	9201	County of Merced (Central Pacific Railroad Company)	Granted	Oct. 1, 1923
12682	9335	Fresno Interurban Railway Company (County of Fresno)	Granted	Oct. 4, 1923
12684	9287	Los Angeles Juniperion Railway Company (County of Los Angeles)	Granted	Oct. 10, 1923
12689	9287	Southern Pacific Company (City of Vernon)	Granted	Oct. 11, 1923
12703	9407	Southern Pacific Company (City of Los Banos)	Granted	Oct. 13, 1923
		Second Street	Granted	Oct. 13, 1923
		Center Avenue and First Street	Granted	Oct. 13, 1923
		Pasadena Avenue	Granted	Oct. 10, 1923
		Fresno, Minnesota and Kentucky Avenues	Granted	Oct. 4, 1923
		Father Road crossing	Granted	Oct. 1, 1923
		Oliver, Flower and Lake Streets	Granted	Oct. 1, 1923
		Beck Street	Granted	Sept. 29, 1923
		Mission Road at Shorb Station	Granted	Sept. 27, 1923
		Alameda Street	Granted	Sept. 27, 1923
		North Third Street	Granted	Sept. 21, 1923
		Walnut Avenue	Granted	Sept. 21, 1923
		Bush and San Fernando Streets	Granted	Sept. 20, 1923
		Union and I Streets	Granted	Sept. 18, 1923
		Harrison Street	Granted	Sept. 14, 1923
		Over trucks of Los Angeles Railway Corporation	Granted	Sept. 14, 1923
		County road, vicinity Guadalupe	Granted	Sept. 7, 1923
		First Street	Granted	Sept. 6, 1923
		Catherine, Hope and Elizabeth Streets	Granted	Sept. 4, 1923
		Orange Avenue	Granted	Sept. 4, 1923
		Queirolo and Date Streets	Granted	Aug. 30, 1923
		Magnolia Avenue	Granted	Aug. 27, 1923
		Columbia Street	Granted	Aug. 25, 1923
		Santa Fe Avenue	Granted	Aug. 25, 1923
		"C" Street and Soto Street	Granted	Aug. 25, 1923
		Mission Road	Granted	Aug. 25, 1923
		S. B. B. and M.	Granted	Aug. 23, 1923
		Berry Street	Granted	Aug. 23, 1923
		City of Fullerton	Granted	Aug. 23, 1923
		Sunnyvale Avenue	Granted	Aug. 23, 1923
		Boomer Avenue	Granted	Aug. 23, 1923
		Rosevelt Avenue	Granted	Aug. 23, 1923
		County Road	Granted	Aug. 21, 1923
		Avenues	Granted	Aug. 21, 1923
		Vino Avenue between Franklin and Reed	Granted	Aug. 21, 1923
		Berry Street	Granted	Aug. 21, 1923
		Copper Avenue	Granted	Aug. 21, 1923
		Wilson Street	Granted	Aug. 21, 1923
		Mill Street	Granted	Aug. 21, 1923
		near Waukena	Granted	Aug. 14, 1923
		Section 5, township 21 south, range 23 east,	Granted	Aug. 14, 1923
		Forty-eighth and R Streets	Granted	Aug. 14, 1923
		North line of township 23 south, range 25 east,	Granted	Aug. 14, 1923
		south of Pixley	Granted	Aug. 14, 1923
		Ferry Street	Granted	Aug. 2, 1923
		Haven Avenue near Cucamonga	Granted	Aug. 2, 1923





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